

RESOLUTION NO. 232-2025(MSES), *First Reading*

By Mayor Cuda

A Resolution authorizing the Mayor to enter into an agreement with Energility, LLC to provide energy management services for the City of Cleveland Heights, Ohio; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, on September 3, 2024, the City adopted Ordinance No. 152-2024 authorizing the Mayor to execute a guaranteed energy savings contract with Leopardo Energy ("Contract") pursuant to Section 717.02 under the Ohio Revised Code.

WHEREAS, in accordance with R.C. § 717.02, this Council found that the amount of money spent on the Energy Conservation Measures ("ECM") comprising the Contract was not likely to exceed the amount of money the City would save in energy, operating, maintenance, and avoided capital costs over the average system life of the ECM;

WHEREAS, Leopardo's performance and the City's savings under the Contract are evaluated in part through measurement and verification analysis governed by the International Performance Measurement and Verification Protocol ("M&V");

WHEREAS, proposed changes to the ECM approved by Council will require amendments to the Contract's Scope of Work and Performance Guarantee, and an energy management consultant with M&V expertise is necessary to ensure the revised ECM under the amended Contract will not negatively impact the projected savings and that the Performance Guarantee is adjusted appropriately;

WHEREAS, the City received proposals from two energy management service providers offering to provide the M&V, compliance, and other services necessary to maximize the Contract's value to the City; and

WHEREAS, Energility, LLC is an Ohio-based Energy Audit Contractor, approved by the Ohio Department of Development, and employing the Certified Energy Managers, Professional Engineers, and analysts best suited to the City's needs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor is hereby authorized to execute a contract with Energility, LLC to provide energy management services for the City, as described more fully in the proposal attached hereto as Exhibit "A", and for an amount not to exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00). The contract shall contain such other terms as recommended by the Mayor and Director of Law, and shall be approved as to form by the Director of Law.

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SECTION 2. It is found and determined that all formal actions of the Council relating to the adoption of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

SECTION 3. Notice of the passage of this Resolution shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights, or by posting the full text of this Resolution to the City of Cleveland Heights website.

SECTION 4. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to resolve all issues pertaining to the Contract prior to the anticipated substantial completion date. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law earliest time allowed by law.



GAIL L. LARSON
President of Council



ADDIE BALESTER
Clerk of Council

PASSED: December 1, 2025

Presented to Mayor: 12/03/2025 Approved: 12/03/2025

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A handwritten signature in black ink, appearing to read 'T. Cuda'.

TONY CUD
Mayor

Energility, LLC proposes to deliver energy management services (“Services”) to **City of Cleveland Heights (“Client”)** to act as a technical adviser to manage Energy Service Company (“ESCO”) compliance with the contract awarded by Client and perform as your energy manager. The Services are commonly referred to as Owners Technical Representation. Location where Services are performed is across multiple Cleveland Heights owned and operated properties within the municipality (“Site”). Client confirms that they have control of Site(s) to conduct Services. During such time, no selections, choices, or encumbrances of cost shall be made without explicit consent of the Client.

Energility, LLC Services deliverables will include:

1. ESCO oversight and stakeholder coordination, defined as the following key activities.
 - a. Review documents provided to Client to-date.
 - b. Document for the benefit of the Client, project progress meetings including follow up communication with the project stakeholders.
 - c. Work with the ESCO to build transparent document action items, and ensure follow-up on deliverables.
 - d. Resolve conflicts between Client and ESCO while keeping alignment with project goals.
2. Change order management, defined as the following key activities.
 - a. Change request evaluation to assess proposed changes to scope, schedule, or budget for impacts on project outcomes.
 - b. Collaborate with Client to approve, modify, or reject changes and negotiate cost adjustments.
 - c. Document approved changes and update project baselines accordingly.
 - d. Mediate disagreements between the ESCO and Client regarding scope interpretations.
 - e. Confirm change orders align with original contract terms, energy and cost savings guarantees.
3. Project technical support, defined as the following key activities.
 - a. Work with ESCO to ensure Client has training programs for personnel on new systems and operational procedures.
 - b. Provide ongoing technical guidance during the warranty period.
 - c. Document adjustments expected for savings outcomes.
 - d. Conduct final walkthroughs to verify all ESCO work meets specifications.
 - e. Manage punch list creation and prompt resolution of outstanding items.
 - f. Validate submission of warranties, as-built drawings, and compliance requirements.
 - g. Advise Client on outcomes from commissioning activities. Acting as the Client Commissioning Agent would be a separate responsibility and scope of work.
 - h. Assist with evaluation of the project close out package for completeness.

4. Measurement and verification (M&V) analysis, defined as the following key activities.
 - a. Review ESCO defined baseline energy consumption metrics and measurement protocols per International Performance Measurement and Verification Protocol (IPMVP) guidelines.
 - b. Compare actual energy savings to guaranteed performance using ESCO collected data.
 - c. Verify accuracy and compliance of ESCO contract during first year of performance period. Year 2 and future is Additional Services.
 - d. Identify discrepancies and recommend corrective actions to Client.
 - e. Collect data, assemble analysis, and conduct a separate M&V to verify accuracy and compliance of ESCO contract during first year of performance requirement, if necessary results cannot be verified.

Additional Services available for continuation of EMS agreement:

1. Technical advisory hours shall be billed at current hourly rate as defined in the Terms and Conditions.
2. Year 2 and beyond: Collect data, assemble analysis, and conduct a separate M&V following first year of performance requirement.

Contracted Costs for Payments ("Fee Schedule") shall be billed in progress increments for Lump Sum of \$42,180 for not to exceed 300 hours and 2,400 miles of travel. Travel shall be billed at IRS mileage allowance at time of travel.

1. 300 hours at Rate (\$40,500)
2. 2,400 miles at current IRS allowance (\$0.70 per mile, \$1,680)

The Services are provided as stated and there is permission to amend original scope of work, define additional scope of work, or conduct subsequent M&V reporting bywritten consent of both parties.

This proposed Services may be attached to Client's Professional Services Agreement for acceptance and commencement.

Your Energy Management Team

Energility believes every business deserves access to an energy manager. Nonprofit organizations, small businesses, and commercial enterprises benefit from our proven energy intelligence. The cornerstones of our mission are to:

- create action plans to improve equipment and operations
- establish results which lower environmental disruption
- transfer our operations knowledge to owners of buildings
- support local economies by collaborating with resources in the community

Our team of experts has over 100 years of experience working in building operations, engineering facilities, and analyzing energy use. Our Certified Energy Managers (CEMs), Professional Engineers (PEs), Project Managers, and Analysts have built 250+ detailed Energy Plans (ASHRAE Level II energy audits) in 13.9M square feet of commercial and industrial buildings and analyzed over \$15.5M in energy costs. Our clients have acted on the strategies in these Energy Plans, investing over \$35M+ in 196 projects resulting in annual savings of \$5M+ and reducing carbon emissions by over 33,000 metric tons.

- ❖ **Our Focus** includes buildings used for non-profit organizations, offices, education, houses of worship, government, industrial, and multi-family housing.
- ❖ **Client Actions** have resulted in 156 complete projects including 23 comprehensive projects financed using Ohio Energy Loan Fund or PACE.
- ❖ **Energy Services** are portfolio or building benchmarking, energy auditing, design performance specifications, project management, measurement and verification, and procurement.

Your Account Manager

Justin Kale, Director of Opportunity Development
justin@energility.com or 614-746-9276

Terms and Conditions

1. Term: The term from date of commencement is for completion of the scope of work.
2. Payment schedule:
 - a. \$10,800 of the Contracted Costs will be billed after signed agreement as a good faith deposit.
 - b. First invoice following deposit will credit for hours used at Rate.
 - c. The remainder of Contracted Costs will be billed monthly on or about 5th of the month for hours used at the Rate towards completion of deliverable.
 - d. A final invoice shall be approved for payment and upon payment will accept the Services as acceptance of deliverable.
3. Billing: Invoices shall be upon completion of work with net 15 day payment terms.
4. Late payments: Unpaid balances shall be subject to additional fee, up to the maximum allowable by law.
5. Scope of work: This agreement is set for a defined Services which are defined within the Deliverable. Any work outside of the Deliverable shall be billed for **"Additional Services"**. Additional Services shall be billed within 30 days of completion or at minimum of accumulating 10-hours, which ever is soonest.
6. Rate: Consulting fees on hourly Additional Services shall be billed at \$135 per hour (**"Rate"**) and any increase or change shall be communicated in writing at time of Additional Services.
7. Evergreen: Not applicable beyond those terms stated within the agreement. Renewal date shall be the date of delivery of first year measurement and verification report.
8. Confidentiality: Data shared with or access provided to Energility will be considered confidential and shared only with prior consent by authorized representative(s) of the Client unless the information is reasonably available to the general public by federal, state, or local laws or statutes.
9. Insurance Requirements: Energility shall carry reasonable and necessary insurance for its Services including but limited to worker's compensation, general liability, and errors and omissions. Certificate of insurance as evidence of such may be provided upon request by the Client.
10. Governing Law Jurisdiction: This Agreement shall be treated as though it were executed and performed in the State of Ohio and shall be governed by and construed in accordance with the laws of the State of Ohio (without regard to conflict of law principles). This Agreement may be executed and delivered in original, via facsimile or email with PDF attachment, in any number of counterparts, each of which shall be deemed an original, and all of which shall together constitute but one and the same instrument.
11. Indemnification: Client shall indemnify, defend and hold harmless Energility, its officers, directors, partners and agents from and against any and all demands, claims, damages to persons or property, losses and liabilities, including reasonable attorney's fees (collectively **"Claims"**) arising out of or caused by its own negligence or that of its employees or agents.
12. Warranty: No Services implied or indirectly replace contractor(s) or manufacture(s) obligations, commitments, or warranties.
13. Cancellation: In the event that Client must cancel the agreement after signature below, Client shall forfeit the deposit amount. Termination of the Agreement by Client of any reason other than negligence shall result in billing of up to 25% of Contracted Costs paid upon receipt of invoice.

--end Terms and Conditions, Signature Page to follow

Signature Page

Accepted By:

Justin Kale, Managing Member
Energility, LLC

Date

Signatory, Title
City of Cleveland Heights

Date

- ☐ I am enclosing a copy of my company's W-9 with this proposal
- ☐ A copy of my company's W-9 will follow this proposal

I am authorized to accept this proposal on behalf of the company. The Client is the property owner unless otherwise stated. The above prices, specifications, and conditions are satisfactory and are hereby accepted.

--end Signature Page