

ORDINANCE NO. 10-12 AC CMS

AN ORDINANCE TO APPROVE THE FORM AND AUTHORIZE THE EXECUTION OF A LANDFILL GAS SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC., AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH REGARDING LGES LANDFILL GAS ELECTRIC GENERATION

WHEREAS, the City of Oberlin, Ohio (“Municipality”) owns and operates an electric utility system for the sale of electric capacity and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric capacity and energy requirements of its electric utility system, Municipality has heretofore purchased, or desires to purchase in the future, economical, reliable and environmentally sound capacity and energy and related services from, or arranged by, American Municipal Power, Inc. (“AMP”), of which Municipality is a member; and

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric capacity and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members (“Members”), such Members, including Municipality, being political subdivisions that operate municipal electric utility systems in Ohio, Kentucky, Michigan, Pennsylvania, Virginia and West Virginia; and

WHEREAS, Municipality, acting individually and through AMP with other political subdivisions of other states that own and operate electric utility systems, jointly, endeavors to arrange for reliable, environmentally sound and reasonably priced supplies of electric capacity and energy and related services for ultimate delivery to its customers; and

WHEREAS, it is efficient and economical to act jointly in such regard; and

WHEREAS, Municipality has previously entered into a Master Services Agreement with AMP, AMP Contract Number C-11-2005-4444, which contemplates that Municipality shall enter into various Schedules for the provision of capacity and associated energy and related services from AMP to Municipality; and

WHEREAS, the Municipality has determined that it requires additional sources of reliable and environmentally sound “green” electric capacity and energy on a long term basis at reasonable costs, and have requested that AMP arrange for the same; and

WHEREAS, in furtherance of this purpose, AMP and Ohio Renewable Energy Services (“ORES”), have entered into an agreement under the terms of which AMP is to purchase and ORES is to supply and sell up to 1.25 MW of capacity and associated energy from Landfill Gas Energy Systems (“LGES”) for a period of thirteen (13) years; and

WHEREAS, it is necessary and desirable for Municipality to enter into the ORES Landfill Gas Schedule to Municipality’s Master Services Agreement with AMP (hereinafter “ORES Landfill Gas Schedule”) to provide for this additional source of capacity and energy; and

WHEREAS, Members now have the right, but not the obligation, to acquire landfill gas capacity and energy by approval and execution of the ORES Landfill Gas Schedule authorized below; and

WHEREAS, after due consideration, the Municipality has determined it is reasonable and in its best interests to proceed as authorized herein below.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, and State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the ORES Landfill Gas Schedule between Municipality and AMP, substantially in the form attached hereto or on file with the Clerk, including Exhibits thereto, are approved, and the City Manager of Municipality is hereby authorized to execute and deliver the ORES Landfill Gas Schedule with such changes as the City Manager may approve as neither inconsistent with this Ordinance nor materially detrimental to the Municipality, his or her execution of the ORES Landfill Gas Schedule to be conclusive evidence of such approval.

SECTION 2. That the City Manager is hereby authorized to acquire under the ORES Landfill Gas Schedule, authorized above, a Contract Amount of up to 1,250 kW, and to make any determinations and approvals required thereunder, if any, as the City Manager shall deem necessary and advisable.


SECTION 3. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

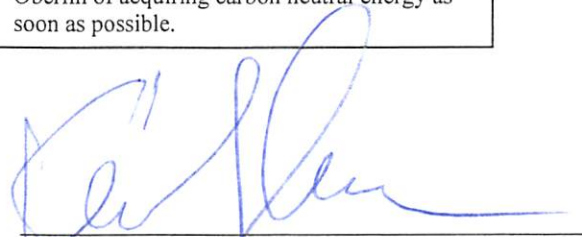
SECTION 4. That this Ordinance shall be in full force and effect at the earliest date allowed by law.

PASSED: 1st Reading - February 16, 2010 (E)
2nd Reading
3rd Reading

in order to facilitate the goals of the City of Oberlin of acquiring carbon neutral energy as soon as possible.

ATTEST:


BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL


KENNETH SLOANE
PRESIDENT OF COUNCIL

POSTED: 2/17/2010

EFFECTIVE DATE: 2/16/2010

City of Oberlin, Ohio
ORES Landfill Gas Schedule
to
American Municipal Power, Inc.
and
City of Oberlin, Ohio
Master Services Agreement
AMP Contract No. C-11-2005-4444

Dated as of January 31, 2010

WHEREAS, the City of Oberlin, Ohio (Municipality) and American Municipal Power, Inc., formerly American Municipal Power-Ohio, Inc. (“AMP”) have entered into a Master Services Agreement AMP Contract No. C-11-2005-4444 hereinafter, “MSA”) under which certain services may be provided, pursuant to Schedules entered into between Municipality and AMP.

WHEREAS, AMP has negotiated and executed an agreement, dated August 1, 2008 between AMP and Ohio Renewable Energy Services, LLC (“ORES”), for the purchase of up to 1.25 MW of capacity and associated energy. (the “LGES Contract”)

WHEREAS, the LGES Contract provides, among other things, significant opportunities for the Municipality to receive reliable, economic, renewable “green energy” intermediate-term electric service from AMP;

SECTION 1 - TERM

The term of this ORES Landfill Gas Schedule shall be effective as of January 31, 2010 and shall thereafter be coterminous with the LGES Contract, nominally for the period ending August 1, 2022; provided, however, that AMP’s obligation pursuant to this Schedule to deliver capacity and energy hereunder is contingent on ORES’s performance pursuant to the LGES Contract.

SECTION 2 - SERVICES

AMP agrees to procure as Seller, pursuant to (and its obligations hereunder are specifically dependent upon) the LGES Contract, up to 1,250 kilowatts (“kW”) of capacity and associated energy for the benefit of the Municipality. Purchaser agrees to take and pay for such capacity and energy where and as available pursuant to the LGES Contract. The final amount of capacity and associated energy to be sold shall be determined by AMP with due regard to, among other factors, the up to amount authorized herein and the amounts requested by other AMP Members (“Contract Amount”). Said Contract Amount in kW and percentage to be set forth on Exhibit B hereto. Municipality shall take or cause to be taken such capacity and energy in pro rata amounts. Such pro rata amounts to be determined by multiplying the Municipality’s percentage Contract

Amount times the actual capacity available from time to time under the LGES Contract. Municipality specifically acknowledges that although capacity and energy made available pursuant to the LGES Contract is intended to be the primary source of capacity and energy pursuant to this Schedule, AMP may, from time to time, substitute for actual delivery purposes, other capacity and energy so as to lower Municipality's, AMP's and other AMP Members that have executed similar Schedules costs; provided, however, that AMP shall attempt to provide such substitute capacity and energy with similar firmness and reliability as that made available under the LGES Contract.

SECTION 3 - SCHEDULING

A. AMP shall cooperate with the Municipality to schedule the capacity and energy to a delivery point as directed by the Municipality and at the Municipality's expense including transmission charges and all ancillary services. Municipality shall, during the term of this Landfill Gas Schedule, designate to AMP, a Delivery Point for delivery on Municipality's behalf.

B. Notwithstanding any other provision of this Landfill Gas Schedule, Municipality shall, when available, take and pay for the LGES capacity and energy.

SECTION 4 - DEPENDENCE ON LANDFILL GAS CONTRACT

Municipality recognizes that AMP's ability to supply capacity and energy under this Schedule is dependent upon AMP's ability to arrange for the same pursuant to the LGES Contract. Additionally, Municipality recognizes that AMP entered into the LGES Contract primarily for the benefit of Municipality and the other Members of AMP and that AMP pursuant to the LGES Contract, has certain rights as well as certain obligations. Accordingly, Municipality warrants to cooperate with AMP in such a manner as to

facilitate AMP's performance of its obligations thereunder and releases AMP from any liability due to LGES' failure to perform.

SECTION 5 - RATES, CHARGES AND BILLING

A. Capacity and energy made available pursuant to this Landfill Gas Schedule shall be charged for at the rates specified in the LGES Contract and shall include an appropriate allocation of all costs incurred thereunder and shall include all costs up to and including those incurred to provide capacity and energy to the Delivery Point as well as the costs set forth in Sections 5 B and C hereof, and shall be charged and billed pursuant to Exhibit A, Capacity and Energy Rate Schedule as the same may be modified by AMP from time to time;

B. All transmission cost including ancillary services, dispatch center cost, taxes and other charges incurred to provide and deliver capacity and energy pursuant to this Landfill Gas Schedule shall be charged and billed to Municipality; and

C. In addition to the other compensation to be paid to AMP pursuant to this Landfill Gas Schedule, Municipality shall also pay AMP the Service Fee specified in the MSA.

SECTION 6 - DELIVERY POINTS

The Delivery Point, pursuant to this Landfill Gas Schedule shall be that set forth on Exhibit C unless the same is modified in writing by the parties. Transmission to any modified or secondary delivery point shall be pursuant to appropriate FERC tariffs at Municipality's expense including all ancillary services.

SECTION 7 – RENEWABLE ENERGY CREDITS

All renewable energy credits or like environmental attributes available to AMP under the LGES Contract shall be credited to or otherwise used to benefit, pro rata, the Municipality.

APPROVED AS TO FORM:

CITY OF OBERLIN, OHIO

Municipality's Legal Counsel

By: _____
(Title)

DATE: _____

APPROVED AS TO FORM:

**AMERICAN MUNICIPAL
POWER, INC.**

John W. Bentine
General Counsel

By: _____
Marc S. Gerken, P.E.
President/CEO

DATE: _____

EXHIBIT A
CAPACITY AND ENERGY RATE SCHEDULE

CAPACITY PAYMENT. One Dollar (\$1.00) per year.

ENERGY PAYMENT. For each Billing Period, Buyer shall Seller an effective Energy Payment rate of rate \$55.94/MWh, which shall be broken down by three Energy Pricing Periods as follows:

Period 1 Energy Payment. \$80.00/MWh.

Period 2 Energy Payment. \$55.00/MWh.

Period 3 Energy Payment. \$40.00/MWh.

Period 1 shall be the hours between Hour Ending (HE) 0800 Eastern Prevailing Time (EPT) and HE 2300 EPT Monday through Saturday (excluding Holidays) during January 1 through February 28 (or 29th), May 15 through September 14 and December 1 through December 31.

Period 2 shall be the hours between Hour Ending (HE) 0800 EPT and HE 2300 EPT Monday through Friday (excluding Holidays) during March 1 through May 14 and September 15 through November 30.

Period 3 shall be all hours not included in period 1 or Period 2.

The following dates shall be considered Holidays for calculating Energy Payments:

New Year's Day (January 1, or January 2 if January 1 is a Sunday), Memorial Day, Independence Day (July 4, or July 5 if July 4 is a Sunday), Labor Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day (December 25, or December 26 if December 25 is a Sunday).

The Parties will agree to negotiate in good faith to modify the time periods and rate relationship between the periods as circumstances change.

The above rates will escalate two percent (2%) per year commencing one year after Commercial Operation Date ("COD") of the LGES Contract facilities and each year thereafter on the anniversary date of the COD for the term of this Agreement.

EXHIBIT B

	KW	%
Amount Of Total Capacity Under LGES Contract	1,250	100%
Amount Of Municipality's Capacity [TO COME]	_____	_____

EXHIBIT CDELIVERY POINT

Participant	RTO/Zone	Delivery Point	Secondary Delivery Point (LMP)	Secondary Delivery Point Voltage
Brewster, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.ATSI.AMPO	23 kV
Cleveland, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.CPP	138 kV
Lodi, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.ATSI.AMPO	69 kV
Milan, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.ATSI.AMPO	69 kV
Monroeville, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.ATSI.AMPO	69 kV
Oberlin, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.ATSI.AMPO	69 kV
Painesville, OH	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.PAIN	138 kV
Wampum, PA	MISO/ATSI	PROJECT INTERCONNECTION WITH [TRANSMISSION ENTITY TO COME]	FE.ATSI.AMPO	4 kV

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF OBERLIN, OHIO:

The undersigned, as fiscal officer of the City of Oberlin, Ohio, hereby certifies in connection with your proposed issue of notes in anticipation of the issuance of bonds for the purpose of adding to, renovating, remodeling, furnishing, equipping and otherwise improving the City's existing fire station, including parking areas, driveways and all necessary utilities and appurtenances, and improving and equipping its site, as follows:

1. The estimated life or period of usefulness of the improvements above described is hereby certified to be at least five years;
2. The maximum maturity of bonds to be issued for such purpose, calculated in accordance with the provisions of Section 133.20 of the Revised Code, is at least twenty (20) years, since each class of the improvements has, by statute or my estimate, an estimated life or period of usefulness of not less than twenty (20) years, or otherwise, if and to the extent a portion of the proceeds of the bonds may be determined to be allocated to a class or classes having an estimated life or period of usefulness of less than twenty (20) years but in excess of five (5) years, then the maximum maturity of the bonds would still be at least twenty (20) years by reason of a sufficient portion of the proceeds of the bonds being allocated to a class or classes having an estimated life or period of usefulness in excess of twenty (20) years;
3. Notwithstanding the foregoing, if notes in anticipation of the issuance of the bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original notes, the period thereof in excess of those five years shall be deducted from the permitted maturity of the bonds; and
4. The maximum maturity of the notes is May 5, 2029, which is twenty years from May 5, 2009, the date of issuance of the original notes issued for the foregoing purpose.



Finance Director
City of Oberlin, Ohio

Dated: April 5, 2010