

City of Oberlin, Ohio

ORDINANCE No. 12-41 AC CMS

AN ORDINANCE APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF BLUE CREEK WIND ENERGY SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC. AND TAKING OF OTHER ACTIONS IN CONNECTION THEREWITH REGARDING WIND GENERATED ENERGY PURCHASES AND DECLARING AN EMERGENCY

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 this and 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 No. 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, certain Members, including the Municipality, have determined that they can utilize additional sources of reliable and economical wind generated electric capacity and energy on a long term basis at reasonable costs, and have requested that AMP arrange for the same by developing or otherwise acquiring interests in certain wind energy facilities (“Wind Facilities”); and

WHEREAS, in furtherance of this purpose, AMP and Blue Creek Wind Farms, LLC (“Blue Creek”), have entered into an agreement (the “Blue Creek Wind Energy Agreement”) under the terms of which AMP is to purchase and Blue Creek is to supply and sell up to 54 MW of capacity and associated energy from Wind Facilities in Van Wert, Ohio for a period of ten (10) years; and

WHEREAS, it is necessary and desirable for Municipality to enter into the Blue Creek Wind Energy Schedule to Municipality’s Master Services Agreement with AMP to provide for an additional source of capacity and energy; and

WHEREAS, Members now have the right, but not the obligation by the enactment of this Ordinance to authorize and request AMP to acquire capacity and energy from Wind Facilities by approval and execution of the Blue Creek Wind Energy Schedule authorized below; and

WHEREAS, prior to the adoption of this Ordinance, AMP has (i) informed the Municipality of the terms of the Blue Creek Wind Energy Agreement; (ii) provided the Municipality the opportunity to review the Blue Creek Wind Energy Agreement; and (iii) offered representatives of the Municipality the opportunity to ask such questions, review data and reports, conduct inspections and otherwise perform such investigations with respect to, as applicable, the acquisition of capacity and energy and the terms and conditions of the Blue Creek Wind Energy Schedule authorized below as Municipality deems necessary or appropriate in connection herewith; and

WHEREAS, after due consideration, the Municipality has determined it is reasonable and in its best interests to proceed as authorized herein below and requests and authorizes AMP to acquire capacity and energy from Blue Creek upon those terms and conditions set forth in the Blue Creek Wind Energy Agreement.

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

SECTION 1. That the Blue Creek Wind Energy 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 is hereby authorized to execute and deliver the Blue Creek Wind Energy 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 Blue Creek Wind Energy Schedule to be conclusive evidence of such approval.

SECTION 2. That the City Manager is hereby authorized to (i) acquire under the Blue Creek Wind Energy Schedule, authorized above, a Contract Amount as defined in that Schedule of up to 1000 kW without bid, and (ii) make any determinations and approvals required thereunder, if any, as the City Manager shall deem necessary and advisable.

SECTION 3. If any section, subsection, paragraph, clause or provision or any part thereof of this Ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Ordinance shall be unaffected by such adjudication and all the remaining provisions of this Ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 4. 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 5. That the ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operations of a municipal department, to wit:

“to authorize the Blue Creek Wind Energy Schedule prior to the deadline date of June 1st set by AMP for legislative approval” and shall take effect immediately upon passage.

PASSED: 1st Reading – May 21, 2012 (S, E)
2nd Reading -
3rd Reading -

ATTEST:



BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL



RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

POSTED: 05/22/2012

EFFECTIVE DATE: 05/21/2012