

SPONSOR: Adams/Elliott

## ORDINANCE NO. 108-10

### AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A REPLACEMENT ENERGY SCHEDULE WITH OPTIONAL PREPAY WITH AMERICAN MUNICIPAL POWER, INC., AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jackson, 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 economical and reliable electric capacity and energy from American Municipal Power, Inc. (“AMP”), of which Municipality is a member, or has heretofore purchased electricity arranged by AMP; and

WHEREAS, Municipality, acting individually and, along with other municipalities which own and operate utility systems, jointly through AMP , endeavors to arrange for reliable, reasonably priced supplies of electric capacity and energy for ultimate delivery to its customers; and

WHEREAS, AMP and Municipality have entered into a Master Services Agreement (“MSA”), pursuant to which sets forth general terms and conditions under which, among other things, AMP may sell and Municipality may purchase electric capacity and energy and other services through schedules to the MSA; and

WHEREAS, AMP and Municipality, as a participant, also entered into a power sales contract (AMP Contract No. C-7-2007-5779-R) regarding the American Municipal Power Generating Station Project (“AMPGS Project”) dated as of November 1, 2007 (“AMPGS PSC”), which was terminated as a coal fired project by the AMPGS participants and the AMP Board of trustees on November 24, 2009; and

WHEREAS, the AMPGS participants and the AMP Board of Trustees determined to investigate the replacement of the AMPGS coal project with, among other possibilities, a natural gas combined cycle project and power purchases from the softened wholesale market and to present modifications to the AMPGS PSC as well as other arrangements, to the AMPGS participants therein to reflect those changes; and

WHEREAS, as a part of those effects the AMPGS participants and the AMP Board of trustees directed AMP to secure a 100 MW block of purchased energy for the period January 1, 2015 through December 31, 2020, on a “take and pay” basis for a favorable cost, through arrangements with MSCGI, for resale to Municipality and other AMPGS participants and, potentially other AMP members;

WHEREAS, in furtherance thereof AMP has negotiated an agreement (“Purchased Energy Agreement”) with MSCGI for the purchase by AMP of firm energy for resale to Municipality and other

AMP members who are participants in the AMPGS Project or, to the extent not fully subscribed to AMPGS participants, also to other AMP members, at favorable rates, terms and conditions; and

WHEREAS, Municipality desires to replace a portion of the energy that would have been available from AMPGS, had it been completed as a coal fired project, from the Purchased Energy Agreement through the AMPGS Replacement Energy Schedule for delivery to AMP at the HD Hub at \$62.95/MWh (Basic Energy Charge”) and then resold to the Municipality; and

WHEREAS, AMP and MSCGI have included provisions in the Purchased Energy Agreement that contemplate that AMP and MSCGI may negotiate and agree to amendments thereto for AMP, to prepay MSCGI, in a discounted lump sum (the “Prepayment”), all or a portion of the remaining Contract Price for energy to be purchased under the Purchased Energy Agreement; and

WHEREAS, AMP intends to issue bonds (“Bonds”) to finance the prepayment if and when the Prepayment is negotiated and executed; and

WHEREAS, any such Prepayment will permit AMP to sell to Municipality firm energy, derived from the amended Purchased Energy Agreement at a price less than the Basic Energy Charge (the “Discounted Energy Charge”) to Municipality; and

WHEREAS, AMP has advised Municipality, and Municipality acknowledges, that there can be no assurance that circumstances will permit, or that AMP and MSCGI can agree on the terms of, any such Prepayment, such that Municipality is entering into this Energy Schedule based on the contract price and other terms contained in the AMPGS Replacement Energy Schedule and not on the prospect that AMP may be able to sell firm energy at a lower Discounted Energy Charge; and

WHEREAS, Municipality previously determined that it could beneficially utilize a portion of such energy and executed the AMPGS PSC with AMP for a share of the power and energy from AMPGS and therefore desires to enter in to; and

WHEREAS, Municipality desires to obtain the benefit of the Discounted Energy Charge and consents to the issuance of bonds by AMP on its behalf to effect Prepayment; and

WHEREAS, the AMPGS Replacement Energy Schedule allows the Municipality option to establish a reserve, through AMP, to be applied to any liability it may have, under AMPGS PSC.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JACKSON, OHIO:

SECTION 1. That the AMPGS Replacement Energy Schedule between Municipality and AMP, substantially in the form attached hereto or on file with the Clerk, including Appendices thereto is approved, and the Authorized representative of the Municipality is hereby authorized to execute and deliver such schedule, with such changes as the Authorized Representative may approve as neither inconsistent with this Ordinance nor materially adverse to Municipality, his or her execution of such Schedule to be conclusive evidence of such approval.

SECTION 2. That the Authorized Representative is authorized to execute the AMPGS Replacement Power Schedule for an amount of up to 2000 kW, on a "take and pay" basis, and the Municipality elects to fund \$1.00/MWh under Section 10(I) of said Schedule, and take such other actions as are necessary or desirable by the Authorized Representatives in connection therewith..

SECTION 3. That AMP is authorized to arrange for the Prepayment and to issue Bonds thereof on behalf of the Municipality so long as AMP's independent financial advisor determines that the same is reasonably expected to provide savings to Municipality.

SECTION 4. This Ordinance is hereby declared to be an emergency Ordinance, necessary for the immediate preservation of the public peace, health or safety of the City of Jackson, so that the City may meet pending timelines in the execution of this agreement. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

SECTION 5. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in conformance with applicable open meetings laws and that all deliberations of this Council and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements.

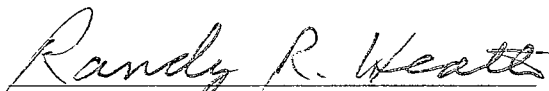
Date: 1-10-11

  
**PRESIDENT OF COUNCIL**

  
**CLERK OF COUNCIL**

Approved:

Date: 1-11-11

  
**MAYOR**