

SPONSOR: Brown/Elliott

ORDINANCE NO. 18-11

TO APPROVE THE FORM AND AUTHORIZE THE EXECUTION OF AN EDI LANDFILL ENERGY SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC. AND TAKING OF OTHER ACTIONS IN CONNECTION THEREWITH REGARDING LANDFILL ENERGY PURCHASES

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, 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-10-2005-4376, 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 landfill gas to energy 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 landfill gas to energy facilities ("Landfill Facilities"); and

WHEREAS, in furtherance of this purpose, AMP and Bio Gas Ohio, LLC ("EDI"), have entered into an agreement (the "EDI Landfill Energy Agreement") under the terms of which AMP is to purchase and EDI is to supply and sell up to 56 MW of capacity and associated energy from landfill energy systems at Landfill Facilities in Oberlin, Port Clinton and Poland, Ohio for a period of ten (10) years; and

WHEREAS, it is necessary and desirable for Municipality to enter into the EDI Landfill 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 Landfill Facilities by approval and execution of the EDI Landfill Energy Schedule authorized below; and

WHEREAS, prior to the adoption of this Ordinance AMP has (i) informed the Municipality of the terms of the EDI Landfill Energy Agreement; (ii) provided the Municipality with a copy of the EDI Landfill 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 EDI Landfill 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 EDI upon those terms and conditions set forth in the EDI Landfill Energy Agreement.

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

SECTION 1. That the EDI Landfill 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 Director of Public Service of Municipality is hereby authorized to execute and deliver the EDI Landfill Energy Schedule with such changes as the City may approve as neither inconsistent

with this Ordinance nor materially detrimental to the Municipality, his execution of the EDI Landfill Energy Schedule to be conclusive evidence of such approval.

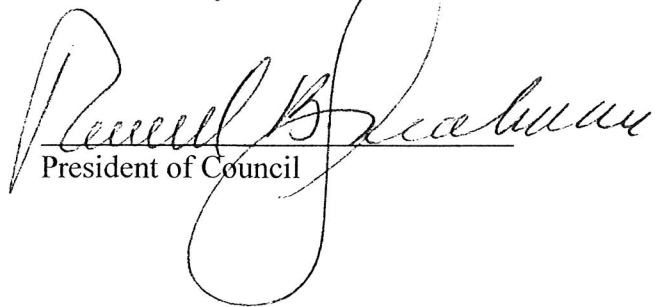
SECTION 2. That the Director of Public Service is hereby authorized to (i) acquire under the EDI Landfill Energy Schedule, authorized above, a Contract Amount as defined in that Schedule of up to 30 kW without bid, and (ii) make any determinations and approvals required thereunder, if any, as the Director of Public Service 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. That this Ordinance shall take effect at the earliest date allowed by law.

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.


13th PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this day of June, 2011.


President of Council

ATTEST:


Clerk of the Legislative Authority

Approved this 13th day of June, 2011.


Mayor