

## RECORD OF ORDINANCES

Ordinance No. 24 - 10

Passed August 16, 2010

**TO APPROVE THE EXECUTION OF AN  
EFFICIENCY SMART POWER PLANT  
SCHEDULE GORSUCH PARTICIPANT  
WITH AMERICAN MUNICIPAL POWER, INC.  
AND DECLARING AN EMERGENCY**

WHEREAS, the Village of Genoa, Ohio ("Municipality") owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, American Municipal Power, Inc. ("AMP" and formerly known as AMP-Ohio) is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power 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, as of the date hereof, a political subdivision that operates a municipal electric utility systems in Ohio, Kentucky, Michigan, Pennsylvania, Virginia and West Virginia; and

WHEREAS, AMP and Municipality have entered into a Master Services Agreement, AMP Contract No. C-11-2005-4413, pursuant to which AMP provides certain services to Municipality as set forth in various schedules to the Master Services Agreement (the "Schedules"); and

WHEREAS, AMP and Municipality entered into a Power Sales Contract, dated as of January 1, 1988, relating to the Richard H. Gorsuch Generation Station Project ("Gorsuch Project") under which Municipality has been receiving a share of the power and energy from the Gorsuch Project and has paid for its share of the costs thereof; and

WHEREAS, on April 1, 2009 AMP was served with a Notice of Violation ("NOV") from the U.S. EPA alleging AMP and the previous owner of the Gorsuch Project had violated the Clean Air Act by performing certain work performed at the Gorsuch Project in 1981 - 1986 (before AMP had an interest in the Gorsuch Project) and again in 1988 - 1991 should have triggered "New Source Review"; and

WHEREAS, similar NOVs were issued to nearly all regional utilities with coal fired generation in the past; and

WHEREAS, with the approval of the Gorsuch Project participating municipalities' representatives and its Board, AMP has entered into a "Consent Decree" with the U.S. EPA which has been filed with the U.S. District Court for the Southern District of Ohio; and

WHEREAS, the Consent Decree requires, among other things, AMP to implement a energy efficiency program that encompasses the participating Gorsuch Project municipalities that will cost not less than \$15 Million and which is expected to provide approximately twice that amount in power and energy cost savings; and

WHEREAS, AMP and the Vermont Energy Investment Corporation ("VEIC") have negotiated a relationship regarding the implementation of an energy efficiency program for AMP to be known as the Efficiency Smart Power Plant ("ESPP"); and

WHEREAS, in furtherance thereof AMP and VEIC entered into an ESPP agreement ("ESPP Agreement") for AMP to pay VEIC to provide a comprehensive set of energy efficiency services ("ESPP Services") designed to comply with the Consent Decree and lower the total need for higher cost electric generation facilities and/or purchased power and thereby reduce Municipality's customers' bills (the "ESPP Services"), to be offered to Gorsuch participants as well as other AMP members contingent upon the attainment of specific subscription levels of AMP member municipalities referred to in the ESPP Agreement as "Critical Mass Participation"; and

WHEREAS, AMP has provided the Municipality with copies of the Consent Decree and ESPP Agreement.

WHEREAS, AMP and Municipality desire to enter into a Schedule ("ESPP Schedule"), under the MSA, which provides that AMP will obtain and sell to Municipality, and Municipality will agree to take and pay for, a share of the ESPP Services which AMP has contracted to acquire in the ESPP Agreement; and

WHEREAS, as set forth in the ESPP Schedule, AMP's sale, and Municipality's purchase, of the ESPP Services is contingent on achieving Critical Mass Participation by the Critical Mass Date (as defined in the ESPP Agreement).

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WHEREAS, Municipality has the option to defer payments under the ESPP Schedule to better match the expenditures with the energy and cost savings thereunder.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF GENOA, OTTAWA COUNTY, OHIO:

SECTION 1. That the ESPP Schedule between Municipality and AMP, substantially in the form attached hereto or on file with the Fiscal Officer, including Appendices thereto, are approved, and the Village Administrator of Municipality is hereby authorized to execute and deliver the ESPP Schedule.

SECTION 2. That the Village Administrator is hereby authorized to take any action necessary for Municipality to fulfill its obligations under the ESPP Schedule.

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

SECTION 4. 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 5. This Ordinance shall take effect immediately upon passage.

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

Vote to Suspend Rules: Yeas 5 Nays 0  
Vote on Emergency: Yeas 5 Nays 0  
Passed: August 16, 2010 Yeas 5 Nays 0

ATTEST:

Charles E. Bunker  
Fiscal Officer

David Adams  
President of Council

[Signature]  
Mayor

CLERK/TREASURER'S CERTIFICATE AS TO PUBLICATION

This is to certify that publication of the foregoing was duly made as provided in Ordinance 52-07 adopted by the following method:

By posting certified copies thereof in the six (6) public places specified in Section 105.01 of the Codified Ordinances of the Village of Genoa, and by and by Ordinance No.52-07, said posting having been accomplished on the following date: August 17, 2010.

Charles E. Bunker  
Fiscal Officer