

ORDINANCE NO. 04-32 AC CMS

AN ORDINANCE APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A FINANCING AGREEMENT BY THE CITY OF OBERLIN, OHIO WITH AMERICAN MUNICIPAL POWER-OHIO, INC. AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH AND DECLARING AN EMERGENCY

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

WHEREAS, the Municipality, acting individually and, along with other Ohio municipalities that are also members of AMP-Ohio ("Members") and that own and operate electric utility systems, jointly through AMP-Ohio, endeavors to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to consumers; and

WHEREAS, it is efficient and economical to act jointly in such regard and the same is contemplated and authorized by, *inter alia*, Article XVIII, Sections 3 and 4 of the Ohio Constitution and Ohio R.C. §715.02; and

WHEREAS, the Municipality has enacted Ordinance No. 04-22 AC CMS authorizing execution of a Joint Venture Agreement (capitalized terms herein shall have the same meaning as set forth in the Joint Venture Agreement) and its participation in Ohio Municipal Electric Generating Agency Joint Venture 6 ("OMEGA JV6") and is required to finance or otherwise provide a cash contribution, to purchase its Project Share (as defined in Exhibit 1 thereto) thereunder; and

WHEREAS, the Municipality desires to finance the cost of its Project Share, and AMP-Ohio is willing to assist the Municipality and other Members participating in OMEGA JV6 ("Participants") that wish to finance the cost of their Project Shares ("Financing Participants") in accomplishing such financing by issuing its bonds for the benefit of the Financing Participants; and

WHEREAS, AMP-Ohio, on behalf and at the direction of the Financing Participants, has prepared and heretofore delivered to the Municipality the form of the Financing Agreement pursuant to which the Financing Participants would commit jointly to make Bond Payments (as defined in Exhibit 1 to the Joint Venture Agreement) to AMP-Ohio in amounts sufficient to pay principal of, premium (if any) and interest on AMP-Ohio's bonds, together with other costs of financing specified in the Financing Agreement; and

WHEREAS, AMP-Ohio, on behalf and at the direction of the Financing Participants, has made available or provided appropriate personnel and information regarding the Project to the Municipality, as such officers and representatives of this Municipality have deemed necessary or appropriate, to enable this Municipality to evaluate the benefits and risks of the Project and the Financing Agreement, to take

actions contemplated by the ordinance hereinafter set forth and the Financing Agreement, and to determine the same are in the public interest; and

WHEREAS, this Municipality desires the Financing Participants, acting jointly pursuant to the Financing Agreement, to proceed with the financing of their Project Shares in accordance with the Financing Agreement;

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

Section 1. That the form of Financing Agreement attached to the Joint Venture Agreement as Appendix M, including the Schedules appended thereto, between AMP-Ohio on the one hand and this Municipality and such other AMP-Ohio Members as may enter into such Financing Agreement as provided therein on the other hand, be, and the same hereby is, approved, subject to and with any and all changes permitted hereby and thereby.

Section 2. That the City Manager of this Municipality is authorized and directed to execute and deliver on behalf of this Municipality an agreement, with such changes therein (in addition to such changes as are herein above provided for), if any, as said officer shall deem necessary and advisable, substantially in the form of the Financing Agreement, and shall approve, such approval being conclusively evidenced by the execution and delivery of the Financing Agreement.

Section 3. That 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 it is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and 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.

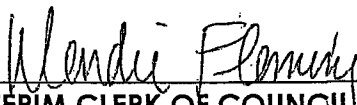
Section 5. That this ordinance is hereby declared an emergency measure necessary for the preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, and to provide for the usual daily operation of the municipal utility, to wit, including Section 121.22 of the Ohio Revised Code:

"To authorize the City Manager to execute the financing agreement with OMEGA JV6 at the earliest date possible to allow AMP-Ohio to complete the OMEGA JV6 formation process and transfer financing costs of the project to from AMP-Ohio to OMEGA JV6,"

and shall take effect immediately upon passage.

PASSED: 1st Reading – April 19, 2004 (Suspension of 3 readings and passage on
2nd Reading – emergency)
3rd Reading –

ATTEST:



INTERIM CLERK OF COUNCIL



CHAIR OF COUNCIL

POSTED: 4/19/2004

EFFECTIVE DATE: 4/19/2004

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Karen *(41)* *Jean*

Eugene Simon

From: Steve Dupee
Sent: Monday, May 17, 2004 3:40 PM
To: Eugene Simon
Subject: 04-32

Hi Jean:

I have not provided you with a copy of the contract for ordinance #04-32 because AMP-Ohio may decide to change the way the wind project will be financed. If they do, we will be doing another ordinance for the wind project financing. I just wanted to make you aware.

Thanks.

Steve.

*See Ord No
04-46*