

## **ORDINANCE NO. 05-38 AC CMS**

### **AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A COMBUSTION TURBINE POWER SCHEDULE WITH AMERICAN MUNICIPAL POWER – OHIO, INC. (AMP-OHIO), IN ORDER TO PURCHASE CAPACITY AND ASSOCIATED ENERGY OUTPUT FROM AMP-OHIO COMBUSTION TURBINE GENERATING UNITS**

**WHEREAS, the City of Oberlin, Ohio (the "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, in order to satisfy the electric power and energy requirements of its electric energy system, the Municipality has heretofore purchased economical and reliable power and energy from American Municipal Power-Ohio, Inc. (hereinafter "AMP-Ohio"), an Ohio corporation not for profit, of which the Municipality is a member, or has heretofore purchased power arranged by AMP-Ohio; and,**

**WHEREAS, the Municipality, acting individually and, along with other municipalities which 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 its customers; and,**

**WHEREAS, Municipality has executed, or will execute, a Master Services Agreement with AMP-Ohio which sets forth the general terms and conditions for the provisions of power supply and other services by AMP-Ohio to the Municipality; and,**

**WHEREAS, the Municipality is a member of the Reserve Power Pool, the purpose of which is to provide a supply of reserve energy and associated power at a reasonable cost should the Municipality need such reserve power; and,**

**WHEREAS, AMP-Ohio was able to acquire, at a substantially discounted price, natural gas fired turbine electric generating units (herein "Combustion Turbine Generators"), with a combined generating capacity of 142 megawatts, sited in Bowling Green, Napoleon, and Gallon, Ohio, which provide an economical source electricity and associated energy; and,**

WHEREAS, AMP-Ohio desires to permanently finance said purchase price and to sell the available capacity and energy output of the Combustion Turbine Generators on a long term basis to certain of its members (herein "Participants") at a cost consistent with the savings achieved from the deeply discounted purchase price (herein "Combustion Turbine Project"); and,

WHEREAS, the Municipality desires to become a Participant and to purchase shares of the output of the capacity and associated energy from the Combustion Turbine Project (herein "Project Share"); and,

WHEREAS, in order to secure a Project Share, the Participants agree to pay for the Combustion Turbine Project, and the electric power and energy produced thereby, such amounts as are, in the aggregate, sufficient to pay all of the costs and expenses with respect to the Combustion Turbine Project, including any costs related to such long term financing, and to meet their obligations under the Combustion Turbine Power Schedule; and,

WHEREAS, AMP-Ohio, on behalf of and at the direction of the Participants has prepared and heretofore delivered to this Municipality the form of the Combustion Turbine Power Schedule pursuant to which those Participants electing to enter into such agreement would commit to secure the right to a Project Share and to arrange for the delivery of electric power and energy from each Participant's Project Share; and,

WHEREAS, AMP-Ohio, on behalf and at the direction of the Participants, has provided appropriate personnel and information regarding the Combustion Turbine 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 Combustion Turbine Power Schedule, and to determine the same are in the public interest; and,

WHEREAS, this Municipality desires that AMP-Ohio, on behalf of the Participants, proceed with the operation of the Combustion Turbine Project in accordance with the Combustion Turbine Power Schedule; and,

WHEREAS, in recognition of the unique nature of the Combustion Turbine Project, competitive bidding is not required on the Municipality's acquisition of its right to secure a Project Share; however, any competitive bidding requirement that might otherwise be applicable, shall be waived; and,

WHEREAS, it is understood by this Municipality that all payments made by this Municipality pursuant to the Combustion Turbine Power Schedule shall constitute an operation and maintenance obligation ("O&M Expense") of this Municipality's electric utility system, payable from the revenues thereof as specified in the Combustion Turbine Power Schedule, and the Municipality agrees to fix, charge and collect rates sufficient to pay its obligations thereunder along with all other legally required payments of the Municipality's electric utility system.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That the form of Combustion Turbine Power Schedule attached hereto as Exhibit 1, including Appendices thereto among this Municipality and such other municipalities as may enter into such Combustion Turbine Power Schedule as provided therein, be, and the same hereby is, approved, subject to and with any and all changes provided herein and therein.

SECTION 2. That the City Manager is hereby authorized and directed to acquire the Municipality's Project Share, without bid, from AMP-Ohio, and to execute and deliver any and all documents necessary to participate in the Combustion Turbine Project pursuant to the conditions set forth hereinafter.

SECTION 3. That it is further acknowledged and understood that because the Participants will finalize the precise Project Share to be assumed by each Participant electing to enter into the Combustion Turbine Power Schedule after all such municipalities execute and deliver the Combustion Turbine Power Schedule, the City Manager in connection with the execution and delivery of the Combustion Turbine Power Schedule, as hereinafter authorized, is authorized and directed to determine and acquire Municipality's Project Share of up to 2,300 kilowatts, after consultation with the other Participants regarding the

**Project Share available pursuant to said Combustion Turbine Power Schedule, such Project Share to be set forth in Appendix A of the attached form of the Combustion Turbine Power Schedule, such determination as to such Project Share being conclusively evidenced by the adoption of Appendix A to the Combustion Turbine Power Schedule.**

**SECTION 4. 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 hereinabove provided for), if any, as said officer shall deem necessary and advisable, substantially in the form of the Combustion Turbine Power Schedule, and shall approve, such approval being conclusively evidenced by the execution and delivery of the Combustion Turbine Power Schedule.**

**SECTION 5. That it is hereby found and determined that all formal actions of the 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.**

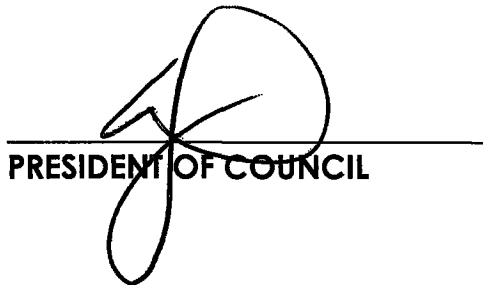
**SECTION 6. If any section, subsection, paragraph, clause or provision or any part thereof of this ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this ordinance shall be unaffected by such adjudication and all the remaining provisions of this 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 validity, been included herein.**

**SECTION 7. That this ordinance shall take effect at the earliest date allowed by law.**

**PASSED:     1<sup>st</sup> Reading – June 6, 2005 (E)  
                  2<sup>nd</sup> Reading –  
                  3<sup>rd</sup> Reading -**

ATTEST:

  
CLERK OF COUNCIL

  
PRESIDENT OF COUNCIL

POSTED: June 7, 2005

EFFECTIVE DATE: June 7, 2005



BERLIN MUNICIPAL LIGHT AND POWER SYSTEM ♦ 289 SOUTH PROFESSOR STREET ♦ OBERLIN, OHIO 44074

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MEMORANDUM

To: Rob DiSpirito, City Manager  
Re: AMP-Ohio Combustion Turbine Project  
From: Steve Dupee, Electric Director  
Date: September 23, 2005

ORD 05-7316  
Cim

On June 6, 2005, City Council passed Ordinance # 05-38 authorizing an agreement with AMP-Ohio to purchase capacity and energy from the AMP-Ohio Combustion Turbine Project. To refresh your memory, the agreement would allow us to purchase energy and capacity from a 142 megawatt distributed generation project located in three (3) AMP-Ohio member communities. This distributive generation was purchased for pennies on the dollar from PG & E in 2003. We will use our share of the project to provide back-up power to the Richard H. Gorsuch Station.

As of this date, we have not executed this agreement with AMP-Ohio because AMP-Ohio had to make several changes to the agreement including:

- Increasing our capacity share of the project from 2,300 kilowatts to 2,600 kilowatts in order to accommodate a step up provision;
- Changing the term of agreement to 1/01/06 to 12/31/22 in order to accommodate finance payment terms of project;.
- Providing the Operating Committee the option of extending term of agreement for successive one year periods at the actual cost of project once debt service is completed and;.
- Determining final capacity allocations only when project is fully subscribed.

AMP-Ohio has notified me that these changes will require passage of a new ordinance. I have attached a new draft ordinance along with an updated Combustion Turbine Schedule (Exhibit 1). I am recommending passage of this ordinance since these changes do not adversely impact our participation in the project.

I would respectfully request that the attached ordinance be placed on the City Council agenda for October 3<sup>rd</sup> for emergency consideration. AMP-Ohio apologizes for the short notice as well as the last minute changes requiring us to pass a new ordinance. An AMP-Ohio representative will be available to answer any questions City Council may have.

In the meantime, if you have any questions, please let me know.

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