

RESOLUTION NO. 2018-62

**A RESOLUTION AUTHORIZING THE EXECUTION
OF THE 2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE
(AMP CONTRACT NO. 2018-004647)
WITH AMERICAN MUNICIPAL POWER, INC. ("AMP")**

WHEREAS, the City of Huron, Ohio (the "Municipality") is a political subdivision organized and existing pursuant to the laws of the state of Ohio which owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers;

WHEREAS, in order to satisfy the electric energy requirements of its electric utility system, the Municipality has heretofore purchased economical and reliable energy from AMP, an Ohio non-profit corporation, of which the Municipality is a member, or has heretofore purchased energy arranged by AMP;

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

WHEREAS, Municipality has executed a Master Services Agreement with AMP which sets forth the general terms and conditions for the provision of power supply and other services by AMP to the Municipality;

WHEREAS, AMP will negotiate with one or more reputable and financially sound third party power suppliers to enter into an agreement(s) to purchase electric energy in various megawatt ("MW") or megawatt hour ("MWh") blocks for a term beginning on October 1, 2018 and ending no later than December 31, 2025, all of which will provide an economical source of electric energy (herein "Long Term Energy Purchase(s)") for Municipality;

WHEREAS, AMP, on behalf of the Municipality, desires to purchase from third party supplier(s) and then to resell the energy available from these Long Term Energy Purchase(s) on a long term basis to Municipality at contract cost (excluding any taxes, transmission costs, replacement energy, losses, congestion costs, security costs, or AMP service fees) not to exceed \$42.00 per MWh;

WHEREAS, AMP, has prepared and delivered to the Municipality the form of a 2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE, pursuant to which the Municipality may purchase energy; and

WHEREAS, AMP has provided and will continue to provide appropriate personnel and information regarding the Long Term Energy Purchase(s) to the Municipality, as such officers and representatives of the Municipality deem necessary or appropriate, to enable the Municipality to evaluate the benefits and risks of the Long Term Energy Purchase(s), to take actions contemplated by the resolution hereinafter set forth and to determine that the same are in the public interest.

NOW THEREFORE, BE IT RESOLVED] BY THE COUNCIL OF THE CITY OF HURON, OHIO.

SECTION 1. That the form of the 2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE, including the certificate, the form of which appears as Exhibit A to the Schedule, between this Municipality and AMP, substantially in the form attached hereto as Exhibit 1, is approved, subject to and with any and all changes provided for herein and therein.

SECTION 2. That the City Manager be authorized to execute the 2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE and to acquire the Municipality's energy from one or more Long Term Energy Purchase(s), each with a term beginning on November 1, 2018 and ending no later than December 31, 2025, and with a third party contract price (excluding any taxes, transmission costs, replacement energy, losses, congestion costs, security costs, or AMP service fees) not to exceed \$42.00 per MWh for purchases, from AMP, and is further authorized to execute and deliver any and all documents necessary to participate in one or more Long Term Energy Purchase(s), pursuant to the conditions set forth herein, as set forth in the 2018-2025

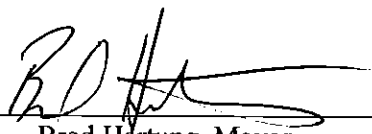
FIXED VOLUME ENERGY SUPPLY SCHEDULE; provided, however, that (i) the total MW for all such purchases under the 2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE shall not exceed 31 MW.

SECTION 3. That competitive bidding is not required on the Municipality's acquisition of its right to secure energy under the 2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE, and in the event any competitive bidding requirements are applicable, any such competitive bidding requirement that might otherwise be applicable, are hereby waived.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of a quorum of the Council, and that all deliberations of this Council and of any its committees that resulted in such formal action, were held in meetings open to the public, in compliance with all legal requirements.

SECTION 5. If any section, subsection, paragraph, clause or provision or any part thereof of this shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this resolution shall be unaffected by such adjudication and all the remaining provisions of this resolution 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 6. That this resolution shall take effect at the earliest date allowed by law.



Brad Hartung, Mayor

ATTEST: 
Clerk of Council

ADOPTED: 24 JUL 2018

CITY OF HURON, OHIO
2018-2025 FIXED VOLUME ENERGY SUPPLY SCHEDULE
AMP Contract No. 2018-004647-SCHED

A Schedule to
American Municipal Power, Inc.
and
City of Huron, Ohio
Master Service Agreement No. C-3-2006-5025

WHEREAS, the City of Huron, Ohio (the "Municipality") and American Municipal Power, Inc. ("AMP"), collectively ("Parties"), have entered into a Master Service Agreement ("Agreement") under which certain services may be provided under schedules thereto;

WHEREAS, in order to obtain economical electric energy, the Municipality desires to purchase electric energy from AMP or have AMP arrange for the same on behalf of the Municipality; and

WHEREAS, AMP will negotiate with one or more reputable and financially sound third party power suppliers to enter into an agreement(s) to purchase electric energy in various megawatt ("MW") or megawatt hour ("MWh") blocks for a term beginning on October 1, 2018 and ending no later than October 31, 2025, all of which will provide an economical source of electricity energy (herein "Long Term Energy Purchase(s)") for Municipality.

NOW, THEREFORE, in consideration of the conditions, terms and covenants hereinafter contained, the Parties do hereby mutually agree as follows:

ARTICLE I
TERM

SECTION 101 – CONTRACT TERM: Subject to the conditions contained herein, this Schedule shall be for a term beginning on October 1, 2018 and ending no later than

October 31, 2025.

ARTICLE II
CONTRACT QUANTITIES AND RATE

SECTION 201 - CONTRACT QUANTITIES: For the compensation hereinafter set forth, and pursuant to the terms and conditions contained herein, AMP shall arrange for the delivery of energy to the Municipality. The Municipality shall be invoiced and responsible for paying, and AMP is entitled to receive as compensation, the following:

- A. Actual monthly transmission fees, congestion charges, ancillary services, unforced capacity charges, losses, customer charges, security costs, replacement energy, and taxes or other such costs incurred by AMP to deliver the energy to the Municipality's Delivery Point;
- B. AMP's Service Fee B, as defined in the Agreement, for all energy sold or arranged for and delivered pursuant to this Schedule, unless the same is paid for under another power supply schedule; and
- C. The contract rates or fees that AMP pays or incurs for each MW or MWh of energy supplied to the Municipality.

The Long Term Energy Purchases anticipated to be executed as transaction confirmations between AMP and third party power suppliers for the benefit of Municipality are listed in the following table. The Municipality's Authorized Representative as designated in Section 402 (or his/her designee) shall be authorized to approve purchases (and execute necessary transaction confirmations) of energy with a term beginning on October 1, 2018 and ending no later than October 31, 2025 as set forth in the table below. Additionally, the third party power supply contract prices of all energy purchases made under this Schedule (excluding any taxes, transmission costs, replacement energy, losses, congestion costs, security costs, or AMP service fees) shall not exceed \$42.00 per MWh for purchases not to exceed a total of 31 MWs, based upon the anticipated schedule below.

Term	Description	Days/Week	Maximum Purchase per Hour	Supplier
October 2018 – April 2019	Non-peak* Hours	Monday-Sunday	12 MW	TBD via steps 1 – 4 below
September 2019 – April 2020	Non-peak* Hours	Monday-Sunday	23 MW	TBD via steps 1 – 4 below
September 2020 – October 2025	Non-peak* Hours	Monday-Sunday	31 MW	TBD via steps 1 – 4 below

SECTION 202 – PROCEDURES FOR AUTHORIZATION OF ENERGY SUPPLY ACQUISITION AND SALE: It is understood and anticipated that AMP may throughout the term of this Schedule, enter into energy purchase transaction confirmations or other arrangements on behalf of the Municipality, subject to the approval of Municipality's Authorized Representative, to implement the Long Term Energy Purchases contemplated in Section 201 of this Schedule. The steps that will be followed in securing such Long Term Energy Purchases are set forth below.

At the time that AMP recommends that a Long Term Energy Purchase should be finalized, the following shall take place:

1. Authorized personnel of AMP shall confer with the Municipality's Authorized Representative (or his/her designee) on a recorded telephone line or through E-mail, regarding AMP's recommended Long Term Energy Purchases that meet the requirements of Section 201 and the table set forth therein prior to executing a transaction confirmation with a third party power supplier. AMP will provide power supply recommendations to Municipality's Authorized Representative based upon the best market information available to AMP at the time any conferring takes place.

2. If the Municipality's Authorized Representative approves AMP's recommendation and authorizes acquisition of the Long Term Energy Purchase over a recorded telephone line or through E-mail, then AMP shall acquire the Long

* Non-peak hours are defined as weekends, holidays or weekdays from midnight to 2 pm and 6 pm to midnight excluding the months of May - August.

Term Energy Purchase on behalf of the Municipality subject to the effective date and other terms and conditions approved by the Municipality's Authorized Representative.

3. AMP will enter into a transaction confirmation or other arrangement with the authorized and approved third party power supplier as soon as reasonably possible after approval is received as set forth above.

4. Once a Purchase is finalized and a supplier transaction confirmation executed, AMP will send an acknowledgement of the transaction via email to Municipality's Authorized Representative that contains the commercial terms for Municipality's review and records.

SECTION 203 – TERMINATION OPTIONS:

1. Opt-Out Option. AMP anticipates purchasing energy from other AMP Member(s) ("Member") to fill the energy portfolio of Municipality. However, AMP agrees that if Municipality's load does not exceed 2 MW during any hour of October 2018, then, upon three (3) days' written notice by Municipality to AMP by December 27, 2018, Municipality shall have the option at its sole discretion to cancel this Schedule in its entirety effective on January 1, 2019.

2. Early Termination Option. AMP anticipates purchasing energy from other AMP Member(s) to fill the energy portfolio of Municipality. However, AMP agrees that if Municipality's load does not exceed 6 MW during any hour for an entire six month period during the Term, then, upon thirty (30) days' written notice by Municipality to AMP, Municipality shall have the option at its sole discretion to cancel this Schedule for the remainder of the Term.

ARTICLE III
DELIVERY POINT

SECTION 301 – DELIVERY POINTS: The delivery point(s) for electric energy to be delivered hereunder ("Point of Delivery" or "Delivery Point") shall be the Municipality's interconnections with PJM, or its successor.

ARTICLE IV
GENERAL

SECTION 401 - FIRMNESS OF SUPPLY: Firmness of supply under this Schedule shall be equal to the firmness provided by the energy supply schedules and transmission service arrangements executed by AMP, which are utilized to provide energy under this Schedule.

AMP's obligations hereunder are specifically dependent upon the performance of the suppliers with whom AMP transacts on behalf of the Municipality or as otherwise agreed to by the Parties. In the event of default of a power supplier (hereinafter "Supplier Default"), AMP shall provide replacement energy to Municipality and Municipality shall pay any cost difference (if any) of the replacement energy (or, if the cost of replacement energy is less, then Municipality shall pay that lower cost). Should a third party supplier default to such a degree that the agreement by and between that third party supplier and AMP is terminated, AMP shall use its best efforts to execute an alternate energy supply agreement, with another supplier unless otherwise agreed to in writing by Municipality.

Notwithstanding the foregoing, AMP agrees that it will notify Municipality promptly of any Supplier Default which may result in AMP's purchase of replacement energy for Municipality. AMP also agrees that in an event of a Supplier Default, AMP shall take all appropriate legal action to enforce the terms of AMP's contracts with the defaulting supplier and/or seek appropriate damages from supplier on Municipality's behalf. Municipality is, and shall be, third party beneficiary of such legal action and will be reimbursed or credited by AMP a *pro rata* share of any net recoveries against the defaulting supplier or Municipality's increased costs occasioned by the Supplier Default, whichever is less.

Municipality specifically acknowledges that although energy made available from the supplies purchased pursuant to this Schedule or otherwise agreed to by the Parties are intended to be the primary source of energy pursuant to this Schedule, AMP may, from time to time, substitute for actual delivery purposes other energy; provided that such substitute energy be of a similar firmness and reliability as that made available under the third party power supplier transaction confirmation(s) and further provided that such substitution does not result in increased costs to Municipality.

When third parties providing firm transmission service interrupt deliveries from AMP to Municipality, AMP will use commercially reasonable efforts to deliver energy across other parties' transmission systems if interruptions occur from the primary firm transmission provider's system.

All other terms and conditions of the Agreement between AMP and the Municipality that are not consistent with the terms and conditions of this Schedule shall be applicable as if fully restated herein.

SECTION 402 – AUTHORIZED REPRESENTATIVE: The Municipality's Representative shall be the City Manager or the City Manager's designee until modified by written notice to AMP by the Municipality.

SECTION 403 – MUNICIPALITY REPRESENTATIONS: Municipality agrees to execute and deliver to AMP a certificate, the form of which appears as Exhibit 1 to this Schedule, to reaffirm covenants necessary to maintain the tax-advantaged status of debt issued for generating project(s) that may be utilized to provide the energy pursuant to this Schedule.

IN WITNESS HEREOF, each of the Parties has caused this Schedule to be duly executed.

CITY OF HURON, OHIO

AMERICAN MUNICIPAL POWER, INC.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Legal Counsel

Lisa G.

McAlister
Sr. Vice President and General Counsel
for Regulatory Affairs

PURCHASING MEMBER CERTIFICATE REGARDING EXCESS ENERGY

The undersigned member municipality (a "**Purchasing Member**") of American Municipal Power, Inc. ("**AMP**"), an Ohio non-profit corporation, DOES HEREBY CERTIFY to AMP and the Selling Member (defined below), as follows:

1. On _____, 201_, the Purchasing Member agreed to purchase excess energy (the "**Purchased Energy**") from _____, another AMP Member (the "**Selling Member**") through AMP and the Purchased Energy may be sourced to the Selling Member's share of power sales contract resources ("**PSCR Share**") in one or more generating resources financed with tax-advantaged debt.
2. In connection with its PSCR Share for one or more AMP sponsored generation projects, the Purchasing Member previously executed a Participant Certificate substantially in the form attached hereto as Exhibit 1.A and therein made covenants necessary to maintain the tax-advantaged status of debt issued for the subject generating project(s). Terms used but not defined herein shall have the meaning set forth in Exhibit A.1 attached hereto.
3. None of the Purchased Energy will be used for any activities that constitute a Private Use and no obligation for payments to AMP or the Selling Member will be secured by or derived from payments with respect to a Private Use.
4. The Purchasing Member has not entered into and will not enter into any output contract that results in Private Use with respect to the Purchased Energy and agrees to cooperate with AMP and the Selling Member regarding any matters related to the Purchased Energy to the extent needed to maintain the tax status of any related outstanding tax-advantaged debt.
5. The undersigned is authorized to sign this Certificate for and on behalf of the Purchasing Member. To the best of the knowledge and belief of the undersigned, there are no other facts, estimates or circumstances that would materially change the expectations set forth herein, and the expectations are reasonable.

WITNESS my hand as of the ___ day of _____, 201_.

[Name of Member]

By: _____
Name:
Title:

CERTIFICATE: MELDAHL PROJECT

The undersigned member municipality (a “Participant”) of American Municipal Power, Inc. (“AMP”), an Ohio non-profit corporation, having read the foregoing Instructions, DOES HEREBY CERTIFY to AMP, as follows:

Section 1. Governmental Use of Proceeds. The Participant represents, warrants and covenants that its PSCR Share will be used for the governmental purposes of such Participant and that it reasonably expects to maintain its rights to its PSCR Share and does not expect to sell or otherwise dispose of such rights while the Meldahl Project is in operation.

Section 2. Representations and Covenants Regarding Private Business Tests. So long as any Tax-Exempt Obligation or Tax-Advantaged Obligation of AMP is outstanding with respect to the Meldahl Project,

(a) Private Business Use. None of the Participant's PSCR Share will be used for any activities that constitute a “Private Use” (as such term is defined in Exhibit A attached hereto).

(b) Private Security or Payment. None of the Participant's obligation for payments to AMP under the Power Sales Contract, under the terms thereof or any underlying arrangement, will be secured by or derived from payments with respect to a Private Use.

(c) Output Contracts. The Participant will not enter into any output contract (described more fully in Exhibit A attached hereto) that results in Private Use with respect to its PSCR Share. In the event that the Participant is currently a party to any contract with a nongovernmental person that may be such an output contract, the Participant agrees to furnish a copy to the AMP Representative with this Certificate. In the event that the Participant proposes to enter into any new output contract, the Participant agrees to furnish a copy to the AMP Representative and, if AMP advises that such contract will or may breach any representation, warranty or covenant that AMP has made with respect to its Tax-Advantaged Obligations, the Participant agrees not to enter into such contract.

(d) Covenant Regarding Cooperation. Participant agrees to cooperate with AMP regarding any matters related to its PSCR Share to the extent needed to maintain the tax status of the Tax-Advantaged Obligations.

Section 3. Authority to Execute Tax Certificate. The undersigned is authorized to sign this Certificate for and on behalf of the Participant. To the best of the knowledge and belief of the undersigned, there are no other facts, estimates or circumstances that

would materially change the expectations set forth herein, and the expectations are reasonable.

WITNESS my hand as of the 12th day of April, 2016.

[Name of PARTICIPANT]

By: _____
Name:
Title: