

**VILLAGE YELLOW SPRINGS, OHIO
ORDINANCE #2005-27**

TO AUTHORIZE THE EXECUTION OF THE 2006 WASG POWER POOL SCHEDULE, TO AUTHORIZE THE VILLAGE MANAGER TO EXECUTE A WASG POWER POOL SCHEDULE WITH AMERICAN MUNICIPAL POWER - OHIO, INC. (AMP-OHIO) IN ORDER TO ARRANGE FOR CAPACITY AND ASSOCIATED ENERGY OUTPUT FROM AMP-OHIO AND DECLARING AN EMERGENCY

WHEREAS, the Village of Yellow Springs, 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 utility 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 provision of power supply and other services by AMP-Ohio to the Municipality; and

WHEREAS, Municipality desires to contract with AMP-Ohio and other AMP-Ohio WASG member municipalities to pool, arrange and share electric power and energy assets to provide for reliable and economical electric power and energy.

NOW, THEREFORE, THE COUNCIL OF THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

SECTION 1. That the form of 2006 WASG Power Pool Schedule attached hereto as Exhibit 1, including Appendices thereto between this Municipality and AMP-Ohio, be, and the same hereby is, approved substantially in the form attached hereto, subject to and with any and all changes provided herein and therein.

SECTION 2. That the Village Manager is hereby authorized and directed to execute and deliver on behalf of this Municipality the 2006 WASG Power Pool Schedule, substantially in the form attached hereto.

SECTION 3. That it is 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 the

Council, and that all deliberations of this Council and of any its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

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. That this Ordinance is hereby declared to be an emergency measure providing for the immediate preservation of the public peace, health, safety and general welfare, and provided this Ordinance receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately and continuing thereafter upon its passage and approval by the Council; otherwise, it shall take effect and be in force from and continuing thereafter upon the earliest time allowed by law.

Jocelyn Hardman, President of Council

Passed:

Attest: _____

ROLL CALL:

Hardman _____

Hempfling _____

Rickenbach _____

Wintrow _____

Exhibit 1
WASG
Pool Participant
WASG-1
AMP-Ohio Contract No. C-10-2005-4380
To
American Municipal Power-Ohio, Inc. and
The Village of Yellow Springs, Ohio
Agreement (Dated _____)
AMP-Ohio Contract No. C-10-2005-4379
(AMP-Ohio Master Service Agreement)

WHEREAS, the Village of Yellow Springs, Ohio (Municipality) and American Municipal Power-Ohio, Inc. (AMP-Ohio) collectively (Parties) have entered into a Master Service Agreement dated _____ (Agreement) under which certain services may be provided under schedules thereto;

WHEREAS, the current members of the Western AMP-Ohio Service Group (WASG) have approved the addition of Celina as a WASG Pool Participant beginning January 1, 2006 and;

WHEREAS, the current members of the Western AMP-Ohio Service Group (WASG) have approved the addition of Piqua as a WASG Pool Participant beginning January 1, 2007 and;

WHEREAS, due to the addition of new members, the current members of the WASG group desire to terminate the existing Pool Participant Schedule on December 31, 2005; and

WHEREAS, the Municipality and AMP-Ohio desire to enter into this WASG Pool Participant Schedule for the purpose of: (i) power scheduling and operations under the Power Services Agreement, the Piqua Interconnection Agreement, both as defined herein, and the PJM OATT; and (ii) economic purchases of capacity and energy for the beneficial use of Pool Participants; and,

NOW, THEREFORE, in consideration of the following mutual promises, AMP-Ohio and the Municipality agree as follows:

Section A. DEFINITIONS (In addition to the definitions in the Agreement)

- (1) Long Term Resource - Owned, leased or contracted generation capacity or related service which, in the case of contracted or leased capacity, is contracted or leased for a term exceeding one (1) year or in the case of owned capacity has an expected life of greater than one (1) year.
- (2) Majority of Municipalities shall mean more than fifty percent (50%) of the Municipalities with each Municipality receiving one (1) vote.

- (3) Monthly Electric Service Capacity – Municipality’s hourly integrated load at the hour of the Peak Load for the month.
- (4) Municipalities - This Municipality and all other Municipalities who are AMP-Ohio members in the WASG that have signed a Schedule similar to this Pool Participant Schedule.
- (5) Non-Pool Capacity and Energy – For Pool A Participants, shall equal the sum of Pool A Participant’s Gorsuch, Landfill, OMEGA JV5 and NYPA Capacity and Energy.
- (6) Piqua Interconnection Agreement - Agreement executed between Piqua and DP&L to provide transmission, capacity, energy and other related services.
- (7) Pool A - Device by which Cinergy 40 MW and Cinergy 10 MW long term capacity and energy is allocated among Pool A Participants.
- (8) Pool B - Device by which capacity and energy is supplied under this Schedule to Pool B Participants.
- (9) Pool A Participant(s) - The Municipalities of Arcanum, Eldorado, Jackson Center, Lakeview, Mendon, Minster, New Bremen, Tipp City, Versailles, Waynesfield, and Yellow Springs.
- (10) Pool B Participant(s) - AMP-Ohio member who is a member of WASG and executes a Schedule substantially in the form of this Schedule for service from AMP-Ohio.
- (11) Pool B Resource - Source of electric capacity or energy or related services to the extent the same is utilized to provide, or is obligated to provide, capacity, energy, reserves or related services to the Pool B for the benefit of the Pool B Participants.
- (12) Power Services Agreement(s) - Agreements executed between the Pool A Participants and DP&L to provide transmission, capacity, energy and other related services and an agreement executed between the Piqua and DP&L to provide transmission, capacity, energy and other related services. The Power Services Agreement between Piqua and DP&L is different from the Piqua Interconnection Agreement.
- (13) Total Pool A Capacity - At the hour of the Total Pool B Peak Load, the sum of the integrated coincident demands in kilowatts as measured at all Delivery Points of all Pool A Participants, plus the net generation from any generation electrically connected to any Pool A Participant's municipal electric system minus the sum of Non-Pool Capacity of all Pool A Participants.

- (14) Total Pool A Energy - In any month, the sum of the kilowatt-hours as measured at all Delivery Points of all Pool A Participants, plus the net generation in kilowatt-hours from any generation electrically connected to any Pool A Participant's municipal electric system minus the sum of Non-Pool Energy of all Pool A Participants.
- (15) Total Pool B Peak Load - In any month, the maximum coincident hourly sum in kilowatts as measured at all Delivery Points of all Pool B Participants, plus the net generation from any generation electrically connected to any Pool B Participant's municipal electric system.

Section B. TERM

Except as otherwise stated herein, this Schedule shall become effective on January 1, 2006 and shall remain in effect through December 31, 2011, and shall continue thereafter unless or until terminated by written notice of termination by either Party giving the other at least 12 months written notice. For the City of Piqua, this agreement shall become effective on January 1, 2007.

Section C. REQUIREMENTS SERVICE (POOL B REQUIREMENTS)

- (1) Subject to provisions of this Schedule, and except as provided in the Power Services Agreement, AMP-Ohio shall be the Pool requirements provider of all electric capacity and energy required by Municipality for purposes of providing electric service to the customers of the Municipality's electric system and to the Municipality as a user of electric service and Municipality shall take and pay for the same in accordance with this Schedule. AMP-Ohio shall provide such Pool B requirements service in a prudent manner so as to provide reliable electric service to Municipality at the lowest overall cost consistent with available sources as further described in this Schedule.
- (2) AMP-Ohio shall provide the Monthly Electric Service Capacity and Energy requirements to the Municipality as follows:
 - (a) If Municipality has rights to Gorsuch Power, Municipality's capacity and energy requirements shall first be filled with any capacity made available by AMP-Ohio pursuant to a certain Power Sales Agreement dated January 1, 1988 (Gorsuch Power).
 - (b) Municipality's capacity and energy requirements shall next be filled by its, if any, Landfill Gas Power (Landfill).
 - (c) Municipality's capacity and energy requirements shall next be filled by its, if any, Belleville Joint Venture Five (5) project power.

- (d) Municipality's capacity and energy requirements shall next be filled by its allocation of hydroelectric preference power from the New York Power Authority (NYPA).
- (e) Municipality's capacity and energy requirements shall next be filled by its allocation of Pool A capacity and energy as calculated in Section (D) if it is a Pool A Participant.
- (f) Municipality's capacity and energy requirements shall next be filled by any other capacity and its associated energy arranged for by the Municipality (Substitute Capacity); provided however, the Municipality provides AMP-Ohio 90 day written notice of its election to arrange for Substitute Capacity, and; provided further however, that from the commencement date, which shall be January 1st of any year, the Municipality shall have sole responsibility to assure the provision of the Substitute Capacity, and to the extent Municipality's Substitute Capacity is not, for any reason, available at any time during the remaining term AMP-Ohio shall provide capacity and energy, to the extent the same is available, to make up for such lack of availability, at Municipality's sole cost. Such notice shall also include identification of the source or sources (to the extent then known), the amount and characteristics of the Substitute Capacity and the year of the commencement of the Substitute Capacity, such information to be seasonably updated.

The municipality shall be limited to the amount of Substitute Capacity allowed for the upcoming year such that the total of all of the municipality's non-pool resources (Gorsuch, Belleville, NYPA, and Substitute) do not exceed more than the Allowable Substitute Capacity. The Allowable Substitute Capacity shall be determined for the upcoming year by the Executive Committee no later than September 1 of each year. The Allowable Substitute Capacity can be different for Pool A Participants and Non-Pool A Participants.

- (g) Municipality's capacity and energy requirements shall next be filled from Pool B.
- (h) The remainder of the Municipality's capacity and energy requirements shall be provided under the Power Services Agreement or the Piqua Interconnection Agreement (if applicable).
- (i) All capacity and energy provided pursuant to Subsections (a) through (h) above shall be arranged, scheduled, and dispatched, subject to contractual limitations, by AMP-Ohio, which shall do so in such a manner as to provide the lowest overall cost consistent with reliability, prudence and all contractual limitations. Accordingly, such arrangement, scheduling and

dispatching may, from time to time, be done in an order other than specified in Subsection (a) through (h) above.

- (j) Energy requirements shall be billed in On Peak (Hour Ending 0800 – Hour Ending 2300 Eastern Prevailing Time, Monday through Friday) hours and Off-Peak (all hours not defined as On-Peak) hours.

Section D. POOL A ALLOCATION

- (1) Capacity from Pool A Resources (Cinergy 40 MW and Cinergy 10 MW) shall be allocated among the Pool A Participants based on the formula:
$$\text{Pool A Participant's Pool A Capacity Allocation} = (\text{Cinergy 40 MW demand scheduled for the month plus Cinergy 10 MW demand scheduled for the month}) / [(\text{Pool A Participant's hourly integrated load at the hour of the Peak Load minus Pool A Participant's Non-Pool Capacity}) \text{ divided by Total Pool A Capacity}].$$
- (2) Energy from Pool A Resources (Cinergy 40 MW and Cinergy 10 MW) shall be allocated among the Pool A Participants based on the formula:
$$\text{Pool A Participant's Pool A Energy Allocation} = (\text{Cinergy 40 MW energy scheduled for the month plus Cinergy 10 MW energy scheduled for the month}) / [(\text{Pool A Participant's monthly energy minus Pool A Participant's Non-Pool Energy}) \text{ divided by Total Pool A Energy}].$$

Section E. POOL B OPERATION

- (1)(a) AMP-Ohio shall provide from Pool B Resources, capacity, energy, transmission, reserves and related services to be placed in Pool B, for the benefit of all Pool B Participants, from various resources available from time to time to AMP-Ohio which, in AMP-Ohio's sole judgment, in recognition of Municipality's non-Pool Resources and subject to the provisions of this Schedule, provides the lowest overall cost to the Pool B Participants consistent with reliability, prudence and contractual limitations. Such Pool B Resources shall include, but shall not be limited to, long, intermediate, limited and short term sources, generation owned and operated by Pool B Participants or other municipal systems and generation owned and operated by AMP-Ohio, or a combination of the above, and includes purchases of transmission, reserves and related services. The charges therefore shall include all costs to AMP-Ohio associated with providing Pool B Resources, including any costs associated with dispatch center personnel, facilities and SCADA equipment required for monitoring of loads, as well as any applicable taxes. All costs of providing Pool B Resources for purposes of supplying the requirements of the Pool B Participants shall be determined and recovered by AMP-Ohio from Pool B Participants, in accordance with this Schedule.
- (b) The Pool B Participants shall establish, as an Executive Committee, five (5) Pool B Participants to advise AMP-Ohio on the desires of the Pool B Participants regarding their power supply under this Schedule and to determine the Allowable

Substitute Capacity. Such committee shall be elected by the Pool B Participants in a manner to be determined by the Pool B Participants; provided however, that should the Pool B Participants be unable to agree on the manner of election, AMP-Ohio shall appoint the committee from among the Pool B Participants. Such committee shall meet as needed, with representatives of AMP-Ohio for the purpose of reviewing AMP-Ohio's operations pursuant to this Schedule, including scheduling, dispatching, and capacity and energy procurement. AMP-Ohio shall give due consideration to the recommendations of said committee in performing its obligations under this Schedule and shall provide the committee with such reports and other information as it shall reasonably require to carry out its functions.

- (2) AMP-Ohio shall not procure Pool B Resources, which shall obligate AMP-Ohio, and therefore the Pool B Participants, for periods greater than one (1) year (Long Term Resources), whether for long or intermediate term purchases, or construction or lease of facilities, unless the Pool B Participants authorize the same by the affirmative consent in writing of a majority of the Municipalities.
- (3) Nothing in this Schedule shall be construed as prohibiting AMP-Ohio from using AMP-Ohio owned facilities or other AMP-Ohio purchased or leased Long Term Resources as Pool B Resources so long as there is no long term obligation on the part of Pool B Participants to purchase the same and so long as the use provides the lowest overall cost consistent with reliability, prudence and contractual limitations.

(4) Excess capacity and energy from Municipalities' Gorsuch, NYPA, Belleville, Substitute or Pool A power shall be sold to Pool B at cost. In the event that Substitute energy is purchased on a 7x24 basis and purchased at a blended on peak and off peak price, the price shall be allocated as follows to determine the cost. On-Peak cost of 7x24 power shall equal the 7x24 rate x 120% and the Off-Peak cost of 7x24 power shall equal the 7x24 rate x 60%; provided however, that should the 120% / 60% ratio of on-peak / off-peak rates become non-representative of power costs, said ratio may be modified by AMP-Ohio with the approval of the Pool B Executive Committee.

Section F. RATES

- (1) Municipality shall be charged and billed by AMP-Ohio, in accordance with Section 7 of the Agreement, for all electric capacity and energy provided pursuant to this Schedule. Along with charges for Gorsuch, NYPA, Landfill, Substitute and JV5 power the Municipality will be billed by AMP-Ohio for Municipality's Capacity and Energy provided from Pool A and B. The charges therefore shall include all costs incurred in providing Pool Resources including an appropriate allocation of the costs of AMP-Ohio's provision of dispatch services for operations relating to the Pools.

- (2) The following charges are not Pool related and if invoiced by DP&L or PJM to AMP-Ohio, the same shall be billed to the Municipality by AMP-Ohio at cost:
 - (a) Cost for transmission across DP&L / PJM
 - (b) Reactive Charges from DP&L / PJM
 - (c) Loss Services across DP&L / PJM
 - (d) Cost for ancillary services across DP&L / PJM
 - (e) DP&L / PJM Customer Charges
- (3) An example of the billing and allocation mechanism to be employed hereunder is attached as Appendix A to this Schedule.
- (4) Municipality shall pay AMP-Ohio's power sales service fee B (\$0.00038 / kWh as of November 1, 2005) for all power sold or arranged for and delivered pursuant to this Schedule (including deliveries under the Power Services Agreement). Municipality shall also pay AMP-Ohio's regular retail service fee (\$0.000125 / kWh as of November 1, 2005) on its retail sales.

Section G. DELIVERY POINTS AND INTERCONNECTION POINTS

- (1) The initial delivery point pursuant to this Schedule shall be the point where the facilities of the Municipality currently are electrically connected to the DP&L system. Changes to or additional delivery points shall be arranged subject to negotiations with DP&L or the orders of any tribunal of competent jurisdiction.

Section H. PRIOR SCHEDULES

The Pool Participant Schedule dated January 1, 1995 and any amendments thereto shall terminate on midnight December 31, 2005 and shall no longer be of any force or effect after the effective date of this Schedule except to the extent billing or like matters remain outstanding.

Section I. SPECIAL TERMS AND CONDITIONS

- (1) Unless otherwise agreed, Municipality shall provide, or cause to be provided, at no cost to AMP-Ohio, at each Delivery Point suitable space for metering, monitoring or communications equipment reasonably required by AMP-Ohio.
- (2) The parties shall keep such records as may be needed to afford a clear history of all transactions under this Schedule. The originals of all such records shall be retained by each party for a minimum of three (3) years and copies shall be delivered to the other party upon request.
- (3) Additional Municipalities may be added only with the written approval of a majority of the Municipalities then participating in the WASG Power Pool. An added municipality shall remain for a term through December 31, 2011 unless otherwise agreed in the written approval.

- (4) Notwithstanding Section (F)(1)(a), in the event that the Municipality enacts an ordinance or institutes a policy that allows its customers the choice to purchase their electricity from a supplier other than Municipality (hereinafter “customer choice”) prior to the ending date of a Long-Term Resource that has been purchased as a Pool Resource, the Municipality shall be financially responsible for that share of the Long-Term Resource that the Municipality’s customer would have used but for exercise of the choice to leave the Municipality’s system until the expiration of the Long Term Resource or the customer returns to the Municipality’s system.
- (5) The method for calculating the Municipality’s financial obligation for the unused portion of the Long-Term Resource shall be determined by a majority of the Municipalities at the time when a customer begins no longer receiving its electricity from the Municipality under a customer choice offering.

APPROVED AS TO FORM:

VILLAGE OF YELLOW SPRINGS, OHIO

John C. Chambers
Village Solicitor

By: _____
Phil Hawkey
Interim Village Manager

APPROVED AS TO FORM:

AMERICAN MUNICIPAL POWER-OHIO, INC.

John W. Bentine
General Counsel

By: _____
Marc S. Gerken, P.E.
President

APPENDIX A

Capacity and Energy Allocation

