

VILLAGE OF YELLOW SPRINGS, OHIO

ORDINANCE 2022-33

**APPROVING THE FORM AND AUTHORIZING EXECUTION OF THE 2022 LOCUST RIDGE
ENERGY SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC.**

**AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH AND DECLARING AN
EMERGENCY**

WHEREAS, the Village of Yellow Springs, Ohio (“Municipality”) owns and operates an electric utility system for the sale of electric capacity and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric energy requirements of its electric utility system, Municipality has heretofore purchased, and desires to purchase in the future, economical, reliable and environmentally sound energy and related services from, or arranged by, American Municipal Power, Inc. (“AMP”), of which Municipality is a member; and

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric capacity 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 political subdivisions that operate municipal electric utility systems; and

WHEREAS, Municipality, acting individually and through AMP with other political subdivisions of this and other states that own and operate electric utility systems, jointly, endeavors to arrange for reliable, environmentally sound and reasonably priced supplies of electric capacity and energy and related services for ultimate delivery to its customers; and

WHEREAS, it is efficient and economical to act jointly in such regard; and

WHEREAS, Municipality has previously entered into a Master Services Agreement with AMP, AMP Contract No. C-10-2005-4379, which contemplates that Municipality shall enter into various schedules for the provision of capacity and associated energy and related services from AMP to Municipality; and

WHEREAS, certain Members, including the Municipality have determined that they can utilize additional sources of reliable energy on a long-term basis at reasonable costs, and have requested that AMP arrange for the same by developing, purchasing or otherwise acquiring interests in certain energy facilities; and

WHEREAS, in furtherance of this purpose, AMP and Locust Ridge II, LLC (“Locust Ridge”) have entered into an energy purchase power agreement (“Locust Ridge PPA”) under the terms of which AMP is to purchase and Locust Ridge is to supply and sell up to approximately 100 MW of energy from the Locust Ridge Project located in Schuylkill Haven, Pennsylvania for a period of thirty six (36) months; and

WHEREAS, it is necessary and desirable for Municipality to enter into the 2022 Locust Ridge Energy Schedule to Municipality's Master Services Agreement with AMP to provide for an additional source of energy; and

WHEREAS, Members now have the right, but not the obligation by the enactment of this Ordinance to authorize and request AMP to acquire energy from the Locust Ridge Project by approval and execution of the 2022 Locust Ridge Energy Schedule authorized below; and

WHEREAS, prior to the execution of the 2022 Locust Ridge Energy Schedule authorized through the adoption of this Ordinance, AMP has (i) informed the Municipality of the terms of the Locust Ridge Energy Schedule; (ii) provided the Municipality the opportunity to review the Locust Ridge PPA terms and conditions (subject to price); and (iii) offered representatives of the Municipality the opportunity to ask such questions, review data and reports, conduct inspections and otherwise perform such investigations with respect to, as applicable, the acquisition of energy and the terms and conditions of the 2022 Locust Ridge Energy Schedule authorized below as Municipality deems necessary or appropriate in connection herewith; and

WHEREAS, after due consideration, the Municipality has determined it is reasonable and in its best interests to proceed as authorized herein below and requests and authorizes AMP to acquire energy from the Locust Ridge Project upon those terms and conditions set forth in the 2022 Locust Ridge Energy Schedule.

NOW, THEREFORE, BE IT ORDAINED BY COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO:

SECTION 1. That the 2022 Locust Ridge Energy Schedule between Municipality and AMP, substantially in the form attached hereto as Exhibit A, are approved, and the Village Manager of Municipality is hereby authorized to execute and deliver the 2022 Locust Ridge Energy Schedule with such changes as the Village Manager may approve as neither inconsistent with this Ordinance nor materially detrimental to the Municipality, their execution of the 2022 Locust Ridge Energy Schedule to be conclusive evidence of such approval.

SECTION 2. That the Village Manager is hereby authorized to (i) acquire under the 2022 Locust Ridge Energy Schedule, authorized above, a Contract Amount as defined in that Schedule of up to 2,000 kW with a price of up to \$49.59/MWh for energy only made available thereunder without bid, and (ii) make any determinations and approvals required thereunder, if any, as the Village Manager shall deem necessary and advisable.

SECTION 3. 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 found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in conformance with applicable open meetings laws and that all deliberations of this Council and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements.

SECTION 5. That in order to take advantage of the pricing in the 2022 Locust Ridge Energy Schedule, and to therefore protect the public welfare, this Ordinance is hereby declared an emergency measure, which shall take effect at the earliest period allowed by law.

Brian K. Housh, President of Council

Passed: 9-19-2022

Judith O. Kintner, Clerk of Council

ROLL CALL:

Housh __Y__

MacQueen __Y__

Stokes __Y__

Brown __Y__

Devore Leonard __Y__

Exhibit A to Ordinance 2022-33

**VILLAGE OF YELLOW SPRINGS, OHIO
LOCUST RIDGE WIND ENERGY SCHEDULE TO
AMERICAN MUNICIPAL POWER, INC.
AND
VILLAGE OF YELLOW SPRINGS, OHIO

MASTER SERVICES AGREEMENT
(AMP CONTRACT NO. C-10-2005-4379)**

WHEREAS, the Village of Yellow Springs, Ohio (“Municipality”) and American Municipal Power, Inc., (“AMP”) have entered into a Master Services Agreement (“MSA”) under which certain services may be provided, pursuant to schedules entered into between Municipality and AMP; and

WHEREAS, AMP has negotiated and executed an Energy Power Purchase Agreement, (AMP Contract No. 2022-008347-MAS) between AMP and Locust Ridge II, LLC (“Locust Ridge”), for the purchase of up to 100 megawatts of energy and ancillary services, (the “Locust Ridge PPA”) from the Locust Ridge II Project (“Locust Ridge Project”), located in Schuylkill County, Pennsylvania, a copy of which has been made available to the Municipality; and

WHEREAS, the Locust Ridge PPA provides, among other things, significant opportunities for the Municipality to receive from AMP reliable, economic, energy through this schedule to the MSA (the “Locust Ridge Energy Schedule”).

SECTION 1 - TERM

The term of this Locust Ridge Energy Schedule shall be effective as of the Delivery Date of the Locust Ridge PPA (October 1, 2022) as defined therein and shall thereafter be coterminous with the same, which is a thirty six (36) month term; provided, however, that Municipality’s obligation to purchase and AMP’s obligation to deliver energy only pursuant to this Locust Ridge Energy Schedule are both contingent on Avangrid’s performance pursuant to the Locust Ridge PPA.

SECTION 2 - SERVICES

AMP agrees to procure as Seller, pursuant to (and its obligations hereunder are specifically dependent upon) the Locust Ridge PPA, output up to 100 MW of energy and ancillary services for the benefit of the Municipality (the “Contract Amount”). Municipality agrees to take and pay for such energy on a *pro rata* basis where and as

available pursuant to the Locust Ridge PPA. Such *pro rata* amounts to be determined by multiplying the Municipality's percentage Contract Amount, as set forth on Exhibit B hereto, times the actual energy available from time to time under the Locust Ridge PPA.

SECTION 3 - DELIVERY POINTS

The Delivery Point(s) for this Locust Ridge Energy Schedule shall be the "Point of Delivery" as defined in the Locust Ridge PPA – the high-side of the facility's interconnection transformer with PPL Utilities - unless the same is modified in writing by the parties. There may also be a Secondary Delivery Point, or Points of Delivery. Municipality may change the Secondary Delivery Point(s) set forth on Exhibit D with AMP's consent, such consent not to be unreasonably withheld, provided that transmission to any modified Secondary Delivery Point shall be pursuant to appropriate Federal Energy Regulatory Commission ("FERC") tariffs at Municipality's expense, including the costs of any/all required ancillary services.

SECTION 4 - SCHEDULING

A. AMP shall cooperate with the Municipality to schedule the energy to a delivery point as directed by the Municipality.

B. Notwithstanding any other provision of this Locust Ridge Energy Schedule and the MSA, Municipality shall, when available, take and pay for the energy.

SECTION 5 - DEPENDENCE ON LOCUST RIDGE PPA

Municipality recognizes that AMP's ability to supply energy under this Locust Ridge Energy Schedule is dependent upon AMP's ability to arrange for the same pursuant to the Locust Ridge PPA. Additionally, Municipality recognizes that AMP entered into the Locust Ridge PPA primarily for the benefit of Municipality and the other Members of AMP and that AMP, pursuant to the Locust Ridge PPA, has certain rights as well as certain obligations. Accordingly, Municipality warrants to cooperate with AMP in such a manner as to facilitate AMP's performance of its obligations thereunder and releases AMP from any liability due to Locust Ridge's failure to perform.

SECTION 6 - RATES, CHARGES AND BILLING

A. Energy made available pursuant to this Locust Ridge Energy Schedule shall be charged at the base rates specified in the Locust Ridge PPA (such rate to be a maximum of \$49.59/MWh) for the term of the Locust Ridge PPA as shown on Exhibit A and the costs set forth in Sections 6 (B) and (C) hereof, and the Energy Rate Schedules as the same may be modified by AMP from time to time and pursuant to the billing provisions herein and in the MSA;

B. The net of the following costs shall be included as a component of a uniform rate adjustment to be charged hereunder for energy delivered or made available to Municipality: (i) any ancillary service, congestion and marginal loss charges by PJM or any other applicable Regional Transmission Organization ("RTO") (ii) any costs or credits associated with differences between day ahead schedule and actual output, and (iii) as well as any costs incurred by AMP under the Locust Ridge PPA not included in the rates set forth on Exhibit A ("Project Energy Rate Adjustment"). This creates a Project Energy Rate for the Locust Ridge Energy Schedule consisting of the charges in Exhibit A as adjusted as set forth in this Section 6 (see Exhibit E – Example Project Energy Rate Calculation). The Municipality shall also be responsible for any additional ancillary service, congestion or marginal loss charges to its Secondary Delivery Point.

C. In addition to the other compensation to be paid to AMP pursuant to this Locust Ridge Energy Schedule, Municipality shall also pay AMP the Service Fee specified in the MSA.

Signature Page to Follow

Village of Yellow Springs, Ohio

Municipal Energy Services Agency

By: _____

Name: _____

Title: _____

By: _____

Jolene Thompson

President & CEO of AMP (as agent for
Municipal Energy Services Agency)

Approved as to Form:

Approved as to Form:

Municipal Legal Advisor

Lisa G. McAlister
SVP and General Counsel for
Regulatory Affairs