

RESOLUTION NO. 024-18

A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF A FIRST AMENDMENT TO THE POWER SALES CONTRACT BETWEEN THE CITY OF NAPOLEON, OHIO AND AMERICAN MUNICIPAL POWER, INC.

WHEREAS, the City of Napoleon (the "Municipality") is a member of the American Municipal Power, Inc. ("AMP", and formerly known as American Municipal Power-Ohio, Inc.), a non-profit corporation in the State of Ohio whose members are Ohio Municipal Corporations that own and operate electric utility systems; and,

WHEREAS, AMP exists for a public purpose, namely to assist the municipally-owned electric systems of the State of Ohio in obtaining and providing safe, reliable, and reasonably priced electric power for their citizens and customers; and,

WHEREAS, the City of Napoleon, Ohio 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, Municipality has heretofore purchased, economical, environmentally sound and reliable power and energy from, or arranged by, American Municipal Power, Inc. of which Municipality is a member; and

WHEREAS, in furtherance of such purpose and in accordance with Resolution No. 065-11, passed unanimously by City Council on October 17, 2011, Municipality, along with other members (collectively "Participants"), became a Participant in a solar project known as the "AMP Solar Project I"; and,

WHEREAS, AMP has developed, including, as appropriate, the financing, acquisition, construction, ownership and operation of the AMP Solar Project I and made other arrangements related thereto, which AMP and, in certain cases, the Project participants, have deemed necessary to enable AMP to fulfill its obligations thereunder to sell and transmit, or otherwise make available, electric capacity and energy to the Project participants pursuant to the AMP Solar Project I Power Sales; and

WHEREAS, the participants of the Power Sales Contract desire to create flexibility, by amending the Power Sales Contract, for a participant to prepay the debt-related revenue requirements associated with its project share so that, on a going-forward basis, such participant would pay a reduced Solar Project Rate, in a manner that results in no detrimental impact to the remaining participants or the Project; **Now Therefore**,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the First Amendment to the Power Sales Contract between this Municipality and AMP, substantially in the form attached hereto, and on file with the Finance Director, including Appendices thereto, is approved, and the City Manager is hereby authorized to execute and deliver such First Amendment, with such changes as the City Manager may approve as neither inconsistent with this Resolution nor materially detrimental to the Municipality, his execution of the First Amendment to be conclusive evidence of such approval.

Section 2. That, the City Manager is hereby authorized to enter into the First Amendment to the Power Sales Contract, upon the effective date of 12:00 am, April 1st, 2018.

Section 3. That, the following definitions are added to Section 1 of the Power Sales Contract:

Financing Participant shall mean a Participant that, with respect to any Bonds, has not fully paid the relevant Financing Revenue Requirements. For avoidance of doubt, a Participant may be a Non-Financing Participant with respect to some Bonds, and a Financing Participant with respect to other Bonds.

Financing Revenue Requirements shall mean, for any Bonds, Section 5(A) Items (viii), (ix), (xi), and (xii) relevant to such Bonds.

Non-Financing Participant shall mean a Participant that, with respect to any Bonds, has fully paid the relevant Financing Revenue Requirements. For avoidance of doubt, a Participant may be a Non-Financing Participant with respect to some Bonds, and a Financing Participant with respect to other Bonds.

Section 4. That, Section 5(C) of the Power Sales Contract is deleted in its entirety and replaced with the following:

(C) The rates and charges to each of the Participants under this Contract, as set forth on the Rate Schedule, shall be a uniform PSR to the Points of Delivery, provided that: (i) each Participant which has had capacity and energy made available hereunder at a Secondary Point of Delivery shall be responsible for the cost of Supplemental Transmission Service or other services related to such delivery and, if not paid to a third party transmission entity by the Participant, the Participant shall be charged an additional amount equal to the additional cost to AMP, if any, of delivery to such Secondary Point of Delivery, including any state and local taxes incurred as a result of such delivery or sale, as set forth on the Rate Schedule; (ii) amounts, if any, respecting reactive power requirements or power factor standards as set forth in Section 10 hereof shall be charged an additional amount equal to such cost; and (iii) the Financing Revenue Requirements for any Bonds shall not be payable by any Non-Financing Participant with respect to such Bonds.

Section 5. That, the following language is added to Section 15 of the Power Sales Contract:

(B) With respect to any Bonds issued or to be issued, a Participant may elect to become a Non-Financing Participant, provided, however, that no such election may materially adversely affect the security afforded by the provisions of this Contract for the payment of the principal, interest, and premium, if any, on the Bonds, except as, and to the extent, permitted by the Trust Indenture. In order to become a Non-Financing Participant with respect to any Bonds outstanding, a Participant must fully pay the Financing Revenue Requirements then outstanding with respect to such Bonds, as

reasonably determined by AMP. In furtherance of Section 22 of this Contract, prior to becoming a Non-Financing Participant with respect to any Bonds, the Participant shall furnish to AMP an opinion, substantially in the form of Appendix A attached hereto, of counsel retained by such Participant and acceptable to AMP.

Section 6. That, A Participant's election to become a Non-Financing Participant shall not modify, in any way, such Participant's obligations to pay Revenue Requirements, including Financing Revenue Requirements, in connection with any Step Up Power purchased by such Participant.

Section 7. That, all other terms and conditions of the Power Sales Contract shall remain in full force and effect.

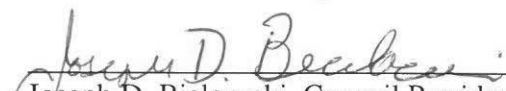
Section 8. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 9. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

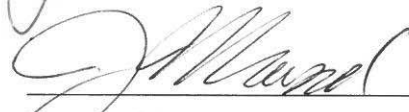
Section 10. That, if any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Resolution shall be unaffected by such adjudication and all the remaining provisions 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 11. That, shall be in full force and effect at the earliest time permitted by law.

Passed: June 4 2018

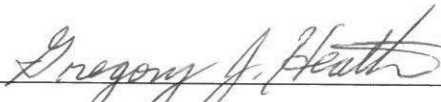

Joseph D. Bialorucki, Council President

Approved: June 4, 2018


Jason P. Maassel, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:



Gregory J. Heath, Clerk/Finance Director

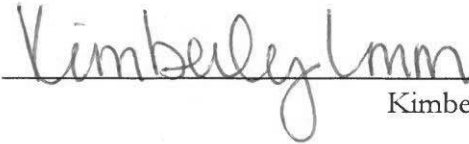
I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 024-18 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 14th day of June, 2018; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.



Gregory J. Heath, Clerk/Finance Director

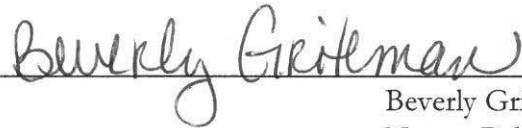
STATE OF OHIO
COUNTY OF HENRY

Kimberly Imm, being first duly sworn, states that she is the Assistant Publisher of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 6th day of June, 2018.



Kimberly Imm

Subscribed and sworn to before me this
6th day of June, 2018



Beverly Griteman
Notary Public,
State of Ohio
My Commission Expires
February 13, 2021

Printer's Fee: \$91.60

Notary Fee: \$1.50

Summary of Resolution No. 024-18

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4.1, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

NOTICE

A copy of the complete text of the above named Ordinance(s) and Resolution(s) are on file in the office of the City Finance Director and may be viewed or obtained during business hours of 7:30 AM to 4:00 PM, Monday through Friday, at the office of the Finance Director, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of the above named Ordinances and Resolutions, or any item mentioned in this notice, may be obtained from the City Finance Director upon the payment of a reasonable fee therefore.

Resolution 024-18

A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF A FIRST AMENDMENT TO THE POWER SALES CONTRACT BETWEEN THE CITY OF NAPOLEON, OHIO AND AMERICAN MUNICIPAL POWER, INC.

In this legislation, the City of Napoleon authorized the City Manager to sign an amendment to the current power sales contract with American Municipal Power, Inc.

All of the above summaries are approved as to form and correctness by Billy D. Harmon, City Law Director