

ORDINANCE NO. 075-19

AN ORDINANCE APPROVING THE EXECUTION OF AN EFFICIENCY SMART SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC.; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon, Ohio ("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, American Municipal Power, Inc. ("AMP") is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power 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, as of the date hereof, political subdivisions that operate, or whose members operate, municipal electric utility systems in Delaware, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia; and,

WHEREAS, AMP and Municipality have entered into a Master Services Agreement, AMP Contract No. C-11-2005-4440, pursuant to which AMP provides certain services to Municipality as set forth in various schedules to the Master Services Agreement (the "Schedules"); and,

WHEREAS, AMP and the Vermont Energy Investment Corporation ("VEIC") will enter or have entered into an agreement (the "ES Agreement") for the implementation of an energy efficiency program known as Efficiency Smart ("ES"), and to provide a program of energy efficiency services ("ES Services") designed to lower the total need for higher cost electric generation facilities or purchased power and thereby reduce Municipality's customers' bills, to be offered to AMP Members; and,

WHEREAS, AMP and Municipality desire to enter into a Schedule ("ES Schedule"), under the MSA, which provides that AMP will obtain and sell to Municipality, and Municipality will agree to take and pay for, a share of the ES Services which AMP will acquire through the ES Agreement; and,

WHEREAS, in furtherance of such purpose and in accordance with Resolution No. 064-13, passed unanimously by City Council on November 18, 2013, the Municipality entered into an Efficiency Smart Rebate Agreement with AMP; **Now Therefore**,

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

Section 1. That, the Efficiency Smart Schedule between this Municipality and AMP, substantially in the form attached hereto, and on file with the Clerk of Council, including Appendices thereto, is approved, and the City Manager is hereby authorized to execute and deliver such Schedule, with such changes as the City Manager may approve as neither inconsistent with this Resolution nor materially detrimental to the Municipality, the execution of the Efficiency Smart Schedule to be conclusive evidence of such approval.

Section 2. That, the City Manager is hereby authorized to take any action necessary for the Municipality to fulfill its obligations under the Efficiency Smart Schedule.

Section 3. That, upon the effective date of 12:00 am, January 1st, 2020, and remain effective until 11:59 pm, December 31, 2022, unless otherwise terminated per the provisions of the Schedule.

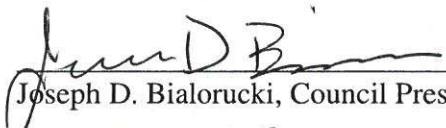
Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal 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 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.


Section 6. That, 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 7. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for timely administration of the rebate (s) necessary to assure public peace, health or safety; therefore, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to continue the process in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: December 2, 2019


Joseph D. Bialorucki, Council President

Approved: December 2, 2019


Jason P. Maassel, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:

Roxanne Dietrich

Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 075-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____; & 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.

Roxanne Dietrich, Clerk of Council