

CITY OF HUDSON, OHIO

[ORDINANCE/RESOLUTION] NO. _____

**TO APPROVE THE FORM AND AUTHORIZE THE EXECUTION OF
THE POTOMAC ENERGY CENTER SCHEDULE WITH
AMERICAN MUNICIPAL POWER, INC.
AND TAKING OF OTHER ACTIONS IN CONNECTION THEREWITH**

WHEREAS, the City of Hudson, 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

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

WHEREAS, AMP is a 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, or whose members 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-11-2005-4423 (“MSA”), which contemplates that Municipality may enter into various schedules for the provision of capacity and associated energy and related services from AMP to Municipality; and

WHEREAS, certain Members, including Municipality, have determined that they can utilize additional sources of reliable and economical electric capacity and energy

on a long-term basis, and have requested that AMP arrange for the same by acquiring interests through a purchased power agreement (“PPA”); and

WHEREAS, in furtherance of this purpose, AMP has entered into a purchase power agreement (“Potomac Energy Center PPA”) with Potomac Energy Center, LLC (the “Seller”) under the terms of which AMP will purchase and Seller will supply and sell up to approximately 268 MW of base capacity as well as an additional share of the 32 MW of duct firing on a pro-rata basis and associated energy from a combined cycle, gas-fired electric power plant located in Loudoun County, Virginia, for a period of fifteen (15) years; and

WHEREAS, it is necessary and desirable for Municipality to enter into a schedule to the MSA to provide for an additional source of capacity and energy; and

WHEREAS, through approval and execution of the Potomac Energy Center Schedule authorized below, Members now have the right, but not the obligation, to authorize and request AMP to acquire capacity and energy through the Potomac Energy Center PPA; and

WHEREAS, prior to the adoption of this [[Ordinance/Resolution](#)] AMP has (i) informed Municipality of the terms of the Potomac Energy Center Schedule; (ii) provided Municipality the opportunity to review the anticipated form of the Potomac Energy Center PPA; and (iii) offered representatives of 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 capacity and energy and the terms and conditions of the Potomac Energy Center Schedule authorized below as Municipality deems necessary or appropriate in connection herewith; and

WHEREAS, Municipality requests and authorizes AMP to explore an arrangement whereby AMP may prepay all or a portion of AMP's obligations to purchase energy and capacity at some point during the term of the Potomac Energy Center PPA and finance the prepayment on behalf of Municipality through the issuance of bonds by AMP in order to achieve additional savings on the capacity and energy derived from the Potomac Energy Center PPA that AMP can pass through to Municipality (“Prepay Agreement”) subject to the additional requirements set forth in the Potomac Energy Center Schedule.

WHEREAS, after due consideration, Municipality has determined it is reasonable and in its best interests to proceed as authorized herein below and requests and authorizes AMP to acquire capacity and energy from the Seller upon the terms and conditions set forth in the Potomac Energy Center PPA.

NOW, THEREFORE, BE IT [ORDAINED/RESOLVED] BY THE COUNCIL OF THE CITY OF HUDSON, OHIO:

SECTION 1. That the Potomac Energy Center Schedule between Municipality and AMP, substantially in the form attached hereto or on file with the

Clerk, including Exhibits thereto and related agreements, if necessary, is approved, and the Authorized Representative of Municipality, identified below, is hereby authorized to execute and deliver the Potomac Energy Center Schedule with such changes as the Authorized Representative may approve as neither inconsistent with this [Ordinance/Resolution] nor materially detrimental to the Municipality, his or her execution of the Potomac Energy Center Schedule to be conclusive evidence of such approval. For purposes of this [Ordinance/Resolution], Municipality's Authorized Representative is: _____.

SECTION 2. That the Authorized Representative is hereby authorized to (i) acquire under the Potomac Energy Center Schedule, authorized above, a Contract Amount as defined in that Schedule of up to [_____ kW], without bid, and (ii) make any determinations and approvals required thereunder, if any, as the Authorized Representative shall deem necessary and advisable.

SECTION 3. If any section, subsection, paragraph, clause or provision or any part thereof of this [Ordinance/Resolution] shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this [Ordinance/Resolution] shall be unaffected by such adjudication and all the remaining provisions of this [Ordinance/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 4. That this [Ordinance/Resolution] shall take effect at the earliest date allowed by law.

SECTION 5. That it is found and determined that all formal actions of this [Council/Board of Public Affairs] concerning and relating to the passage of this [Ordinance/Resolution] were taken in conformance with applicable open meetings laws and that all deliberations of this [Council/Board of Public Affairs] and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements.

[PA ONLY] SECTION 6. Pursuant to 53 P.S. § 47402-A and 53. P.S. § 47505-A, competitive bidding is not required for Municipality's purchase of capacity and associated energy through the Potomac Energy Center Schedule.

(Please contact AMP's General Counsel to discuss any changes to this draft.)