

ORDINANCE NO. 07-71 AC CMS

AN ORDINANCE AUTHORIZING ARCADIS G&M OF OHIO, NOW DBA ARCADIS – US INC , OF AKRON, OH, TO PERFORM ADDITIONAL WORK RELATED TO THE US20/SR58 INFRASTRUCTURE PLANNING STUDY AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring

SECTION 1 That the City Manager is hereby authorized and directed to execute the attached agreement with ARCADIS – US INC , for additional work related to the US20/SR58 Infrastructure Planning Study in an amount not to exceed \$16,500 00

SECTION 2 It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121 22 of the Ohio Revised Code

SECTION 3 That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit

“to proceed with additional work related to an infrastructure planning study in an area subject to strong development pressure at the earliest possible date”

and shall take effect immediately upon passage

PASSED 1st Reading – 10/15/07(E)
 2nd Reading –
 3rd Reading –

ATTEST


Belinda B Anderson
CLERK OF COUNCIL


Daniel Gardner
PRESIDENT OF COUNCIL

POSTED 10/16/2007

EFFECTIVE DATE 10/16/2007

**POWER SALES CONTRACT
REGARDING THE AMERICAN MUNICIPAL
POWER GENERATING STATION**

Between

AMERICAN MUNICIPAL POWER-OHIO, INC

And

**EACH OF THE PARTICIPANTS LISTED ON THE
ATTACHED SCHEDULE OF PARTICIPANTS
INCLUDING THE
CITY OF OBERLIN, OHIO**

Dated as of November 1, 2007

AMP-Ohio Contract No C-7-2007-5798-R
REVISED EXECUTION COPY

	<u>Section</u>	<u>Heading</u>	<u>Page</u>
23	Notices and Computation of Time		45
24	Governing Law		46
25	Severability		46
26	Assignment of Contract		46
27	Beneficiaries		48
28	Survivorship of Obligations		48
29	Dispute Resolution		48
30	Liability		50
31	Term of Contract		50
32	Additional AMPGS Unit #3		52
33	Counterparts		53
34	AMPGS Share Allocation		53
35	Other Agencies		53

**POWER SALES CONTRACT
REGARDING THE AMERICAN MUNICIPAL
POWER GENERATING STATION**

Between

AMERICAN MUNICIPAL POWER-OHIO, INC

And

**EACH OF THE PARTICIPANTS LISTED ON THE
ATTACHED SCHEDULE OF PARTICIPANTS**

THIS POWER SALES CONTRACT regarding the American Municipal Power Generating Station (herein referred to as "Power Sales Contract" or "Contract"), dated as of November 1, 2007, is made and entered into between American Municipal Power-Ohio, Inc ("AMP-Ohio") on the one hand, and its Members listed on the Schedule of Participants attached hereto as Appendix A (the "Participants"), including the City of Oberlin, Ohio (the "Participant"), on the other hand

WITNESSETH

WHEREAS, AMP-Ohio 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 its members, such members, including each of the Participants, being, and to be, Political Subdivisions of their respective states that operate Electric Systems in Ohio, Michigan, Pennsylvania, Virginia and West Virginia, and

WHEREAS, each of the Participants owns and operates its Electric System for the benefit of its customers, and

American Municipal Power Generating Station or AMPGS shall mean a steam electric generating facility located in Meigs County, Ohio, or an alternative site to be determined by AMP-Ohio and approved by the Participants Committee, consisting of two coal-fired boilers, two turbine-generators, coal handling facilities, pollution control facilities, and related equipment used in the production and transformation of electric power and energy and related interconnection and transmission facilities as well as any natural gas or diesel-fired back-up or blackstart generation sited at such facility, having a maximum rated net electric generating capacity (not including any natural gas or diesel-fired black start or back-up generation) of approximately one thousand megawatts (1,000 MW), as further described in Part 1 of Appendix D, including the site and all related permits, licenses, easements and other real and personal property rights and interests, together with all additions, improvements, renewals and replacements to said electric generating facility necessary to keep said facility in good operating condition or to prevent a loss of revenues therefrom or as required by any governmental agency having jurisdiction Appendix D shall be amended to reflect any changes in AMPGS authorized or undertaken in accordance herewith

AMPGS Unit No 3 shall mean an additional coal-fired boiler and turbine generator set and related facilities that could be constructed at the AMPGS site

AMP-Ohio Entitlement shall mean AMP-Ohio's ownership, undivided ownership in, or contractual rights to the available capacity of and energy from AMPGS and other Power Sales Contract Resources

Appendix shall mean any of the attachments to this Contract, all of which are incorporated herein and made a part hereof as the same shall be modified, updated or replaced from time to time pursuant to the terms hereof

Bonds shall mean revenue bonds, notes, bank loans, commercial paper or any other evidences of indebtedness, without regard to the term thereof, whether or not any issue thereof shall be subordinated as to payment to any other issue thereof, from time to time issued by AMP-Ohio (including any legal successor thereto) to finance or refinance any cost, expense or liability paid or incurred or to be paid or incurred by AMP-Ohio in connection with the planning, investigating, engineering, permitting, licensing, financing, acquiring and construction of AMPGS and any other Power Sales Contract Resources, and the refurbishing, operating, maintaining, improving, repairing, replacing, retiring, decommissioning or disposing of the AMPGS or any other Power Sales Contract Resources or otherwise paid or incurred or to

Developmental Costs shall mean development costs incurred by AMP-Ohio in furtherance of the planning, siting, engineering, permitting, land acquisition and related activities in connection with AMPGS or other Power Sales Contract Resources which are set forth on Appendix E, which are to be reimbursed to AMP-Ohio from the proceeds of its first issuance of Bonds, and a portion of which shall be remitted by AMP-Ohio to AMP-Ohio members, Blue Ridge Power Agency and Michigan South Central Power Agency in accordance with certain developmental agreements between AMP-Ohio and those entities

Effective Date shall have the meaning set forth in Section 31 (A)

Electric System of a Participant shall mean the municipal electric utility system owned and operated by the Participant including, without limitation, its contractual rights and obligations under this Contract

Energy Charge shall mean the rate or charge to the Participants, principally designed to recover variable costs of the output of Power Sales Contract Resources including those items that comprise Revenue Requirements, as set forth in Section 5 hereof and in the Rate Schedule not otherwise recovered

Environmental Fund shall mean the sub-fund of the Reserve and Contingency Fund referred to in Section 5(A)(x) that may be used from time to time to mitigate AMPGS or other Power Sales Contract Resources environmental impacts or to moderate volatility in the costs of environmental compliance, including but not limited to the funding of reserves for, or the purchase of, allowances or offsets from Participants, AMP-Ohio or others

Force Majeure shall mean any cause beyond the control of AMP-Ohio or a Participant, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, pestilence, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by due diligence and foresight AMP-Ohio or such Participant, as the case may be, could not reasonably have been expected to avoid

Load Factor shall mean the Participant's energy scheduled from Power Sales Contract Resources over a time period in MWh, divided by Participant's PSCR Share in MW multiplied by the hours in the same time period

Participants Committee shall mean a committee of AMP-Ohio's Board of Trustees consisting of Participants, the members of which, in the aggregate, have not less than a majority of the PSR Shares, organized and operating in accordance with Appendix L

Party with reference to this Contract shall mean AMP-Ohio or any Participant

Points of Delivery shall mean the points as set forth on Appendix C at which AMP-Ohio shall be required to deliver power and energy to or for the benefit of each of the respective Participants pursuant to this Contract at the PSR

Political Subdivision shall mean a city, village, municipality, borough or other public entity that constitutes a political subdivision of a state, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended and as the same may be modified or amended from time to time

Power Sales Contract or Contract shall mean this Power Sales Contract, together with all Appendices, amendments and supplements hereto as permitted by the provisions hereof

Power Sales Contract Resources shall mean, to the extent acquired or utilized by AMP-Ohio to meet its obligations to deliver electric power and energy to the Participants at their respective Points of Delivery pursuant to this Contract, (i) the AMP-Ohio Entitlement and (ii) all sources of Replacement Power and Transmission Service, whether real or personal property or contract rights

Postage Stamp Rates or PSR means the total delivered cost to Participants for Demand Charges, Energy Charges and any power cost adjustments at the Points of Delivery, as specified in the Rate Schedule

Power Cost Adjustment Factor shall have the meaning set forth in Section 5(D)

Project shall mean the acquisition, construction, equipping, testing and placing into service of AMP-Ohio's undivided ownership in AMPGS

Project Costs shall mean all costs incurred in connection with the planning, investigating, licensing, siting, permitting, engineering, financing, equipping, construction and acquisition of the Project including the costs of any necessary transmission facilities or upgrades required to interconnect AMPGS with the PJM RTO and transmit power and energy to the Participants, any payments in lieu of taxes and

Rate Schedule shall mean the schedule of rates and charges attached hereto as Appendix B, as the same may be revised from time to time in accordance with the provisions of Section 5 hereof

Rate Stabilization Fund shall mean the sub-fund of the Reserve and Contingency Fund referred to in Section 5 (A) (x) that may be used from time to time to moderate volatility of the PSR

Regulations shall mean the bylaws for Participants and Participants Committee meetings and actions as set forth in Appendix L, as the same may be amended from time to time

Related Agreements shall mean any Operating Agreement, agreements for interconnection of AMPGS or other Power Sales Contract Resources to the appropriate transmission system, including, as set forth in Appendix F, any agreements for Supplemental Transmission Service and the interconnection agreement for the interconnection of AMPGS to the PJM RTO/AEP transmission system, agreements for the purchase of electric power and energy, other agreements for Transmission Service to enable AMP-Ohio to meet its obligations to deliver electric power and energy for the Participants at their respective Secondary Points of Delivery pursuant to this Contract, any agreement entered into pursuant to Section 35 hereof, any Unit 3 Operating Agreement and all other agreements of greater than one (1) year in length entered into by AMP-Ohio for the acquisition of Power Sales Contract Resources, all as the same may be amended from time to time

Replacement Power shall mean power and energy purchased by AMP-Ohio (i) after the Effective Date of this Contract but prior to the Commercial Operation Date of the second generating unit of AMPGS for delivery to the Participants provided that such purchase is approved by a Super Majority of the Participants as set forth in Section 3(C) hereof, (ii) on or after the Commercial Operation Date of the second generating unit of the AMPGS to back-up all or any portion of the output of the Project's generation facilities or to replace the same during periods in which any unit of the AMPGS is not, for any reason, in service or is derated or otherwise incapable of generating its full nominal capability, or (iii) when, in AMP-Ohio's estimation and in accordance with procedures approved by the Participants Committee, to purchase from or sell to the market, perform commodity swaps or other like transactions such as capacity swaps, reliability exchanges and reserve sharing arrangements, will lower the expected PSR or is consistent with Prudent Utility Practices

delivered hereunder on and after January 1 of each year this Contract is in effect, provided, however, that (1) in the event AMP-Ohio's Board of Trustees elects not to increase said charge in any such year, the charge may be increased in any following year by an additional one-tenth of one mill (\$0 0001) per kWh for each year said charge was not increased, and (11) at the sole option of AMP-Ohio's Board of Trustees, it may convert and replace said charge per kWh to a system of charges based upon demand (in kW) and energy (in kWh), provided, however, that any such demand and energy charges may not operate to cause any Participant to incur Service Fees in excess of what would have been allowable under the "per kWh" method utilizing an assumed Load Factor of eighty-five percent (85%), regardless of the Participant's actual Load Factor. Service Fee B may be increased above \$0 001 per kWh with the approval of both the AMP-Ohio Board of Trustees and the Participants Committee

Step Up Power shall have the meaning set forth in Section 18(B)(11)

Step Up Power Costs shall mean that portion of Revenue Requirements that is allocable to a defaulting Participant's payment obligations hereunder

Super Majority shall mean not less than a seventy-five percent (75%) majority of the weighted vote, based upon PSCR Shares, of all the Participants

Supplemental Transmission Service shall mean the power delivery service under any agreements, tariffs and rate schedules necessary or convenient to transmit power and energy made available to or for the benefit of any Participant hereunder for delivery from the Points of Delivery to a Secondary Point of Delivery

Transmission Service shall mean all transmission arrangements, together with all related or ancillary services rights and facilities, to the extent the same are necessary or prudent to provide for delivery of power and energy hereunder to the Points of Delivery

Trust Indenture shall mean any one or more trust indentures, trust agreements, loan agreements, resolutions or other similar instruments providing for the issuance and securing of Bonds. A draft of the form of the initial Trust Indenture intended to secure Bonds issued for permanent financing of the Project is set forth in Appendix G

Participant, constitutes a legal, valid and binding obligation of AMP-Ohio enforceable in accordance with its terms, except to the extent enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally and by equitable principles

(v) The execution and delivery by AMP-Ohio of this Power Sales Contract and the performance by AMP-Ohio of its obligations hereunder do not and will not contravene any law in existence on the date of execution and delivery of this Contract or any order, injunction, judgment, decree, rule or regulation in existence on the date of execution and delivery of this Contract of any court or administrative agency having jurisdiction over AMP-Ohio or its property or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any bond ordinance, trust agreement, indenture, mortgage, deed of trust or other agreement in existence on the date of execution and delivery of this Contract to which AMP-Ohio is a party or by which it or its property is bound

(vi) All approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of AMP-Ohio in connection with the execution, delivery and performance of this Contract have been obtained or made, other than such approvals, consents, authorizations, registrations, or filings as relate to any Power Sales Contract Resources and are not yet required to have been obtained or submitted

(vii) Except as set forth in Appendix K, there is no litigation or other proceedings pending or, to the best knowledge of AMP-Ohio, threatened against AMP-Ohio in any court, regulatory agency or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of AMP-Ohio or the validity, legality or enforceability of this Contract or the authority of AMP-Ohio or, to AMP-Ohio's knowledge, any Participant to perform as contemplated by the terms of this Contract, other than any proceeding brought by or on behalf of AMP-Ohio or any of the Participants to validate this Power Sales Contract or any Bonds issued under a Trust Indenture

(viii) The facts, descriptions and other information regarding this Contract, AMPGS and power supply matters provided by AMP-Ohio to the Participants and by AMP-Ohio to the Consulting Engineer for the purposes of its load forecasts and Project feasibility studies provided

rule or regulation in existence on the date of execution and delivery of this Contract of any court or administrative agency having jurisdiction over the Participant or its property or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any bond ordinance, trust agreement, indenture, mortgage, deed of trust or other agreement in existence on the date of execution and delivery of this Contract to which the Participant is a party or by which it or its property is bound

(vi) All approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of the Participant in connection with the execution, delivery and performance of this Contract have been obtained or made

(vii) Except as disclosed in writing to AMP-Ohio prior to the execution and delivery of this Contract and described in Appendix K, the Participant has the power and authority to establish, collect and revise the rates charged to the customers of its Electric System in accordance with this Contract and such rates are not subject to regulation by any regulatory authority of its domicile state or the United States of America

(viii) Except as disclosed in writing to AMP-Ohio prior to the execution and delivery of this Contract and described in Appendix K, the obligations of the Participant to make payments to AMP-Ohio pursuant to this Contract are payable as O&M Expenses of the Participant's Electric System and, neither such Participant nor its Electric System has outstanding any bonds, notes or other evidences of indebtedness payable from any revenues of its Electric System prior to or on a parity with its obligations to make payments to AMP-Ohio under this Contract

(ix) Except for pending or threatened litigation, if any, disclosed in writing to AMP-Ohio prior to the execution and delivery of this Contract by the Participant and set forth in Appendix K, there is no litigation or other proceedings pending or, to the best knowledge of the Participant, threatened against the Participant in any court, regulatory agency or other tribunal of competent jurisdiction (either local, State or Federal) questioning the creation, organization or existence of the Participant or its Electric System or the title to any property material to the operation of its Electric System, or the validity, legality or enforceability of this Contract other

out in other provisions of this Contract. The Participants' obligations to take or pay for their respective PSCR Shares of Power Sales Contract Resources shall be principally those set forth in Section 5 and the Rate Schedule (Appendix B) in addition to those set out in other provisions of this Contract.

(B) Subject to the absolute payment obligations of the Participants set forth in Section 5(I), AMP-Ohio (i) shall borrow, and capitalize from the proceeds of such borrowing, all or a portion of the amounts otherwise payable by the Participants in respect of AMP-Ohio's Revenue Requirements prior to the Commercial Operation Date of the first generating unit of the AMPGS and (ii) may borrow, and capitalize from the proceeds of such borrowing, all or a portion of the amounts otherwise payable by the Participants in respect of AMP-Ohio's Revenue Requirements prior to the Commercial Operation Date of the second generating unit of the AMPGS and for a reasonable time thereafter, or (iii) to the extent that AMP-Ohio, upon the request and subject to the approval of the Participants Committee, does not borrow and capitalize from the proceeds of such borrowing all of AMP-Ohio's Revenue Requirements prior to the Commercial Operation Date of the first generating unit of the AMPGS and for a reasonable period thereafter, AMP-Ohio shall, to such extent and only upon not less than one hundred twenty (120) days prior written notice, bill the Participants for their PSCR Shares of up to twenty-five percent (25%) of AMP-Ohio's Revenue Requirements for such period or, with the approval of a Super Majority of the Participants, up to one hundred percent (100%) of AMP-Ohio's Revenue Requirements for such period.

(C) Upon the request and subject to approval of a Super Majority of the Participants, in order to decrease the amount of capitalized interest which may otherwise be accrued during the construction of the AMPGS, AMP-Ohio may purchase and sell and deliver to the Participants, prior to the Commercial Operation Date of the AMPGS second generating unit, power and energy hereunder from Power Sales Contract Resources in *pro rata* amounts up to the amounts listed in Appendix A for such period and in such amounts as determined appropriate by the Participants Committee, at rates which cover all costs of such power and which may include all or any portion of AMP-Ohio's Revenue Requirements for such period, provided, however, that any Participant may elect not to receive such energy and only be charged the Demand Charge portion of Revenue Requirements relating to such interest during construction.

(D) If at any time any Participant has power and energy in excess of its needs, it may request that AMP-Ohio sell and deliver any or all of said Participant's PSCR Share of power and energy available hereunder, and AMP-Ohio shall use commercially reasonable efforts in consultation with such Participant to attempt to sell such surplus for such Participant at not less than a minimum price approved by the

such amounts and on such terms as are set forth herein, provided, however, that any obligations for any such additional Power Sales Contract Resources shall be subject to approval of the Participants Committee if (a) such obligations are for periods greater than one (1) year or (b) if such obligations are for other than Replacement Power during deratings or planned or forced outages of AMPGS or other Power Sales Contract Resources, and

(iv) may, at the direction of the Participants Committee, utilize funds from the Reserve and Contingency Fund, to the extent not inconsistent with any Trust Indenture, to defray the costs of Replacement Power to the Participants during any prolonged outage or derating of AMPGS, and

(v) shall inform the Participants Committee on a regular basis, not less often than in conjunction with the regular meetings of the AMP-Ohio Board of Trustees, of its actions, plans and efforts undertaken in furtherance of clauses (i), (ii) and (iii), of this subsection (A) and subsections (C) and (D) of this Section 4 as well as its other activities under this Contract including review of the Project's proposed annual operating and capital budgets prior to their adoption and to receive and give due consideration to any recommendations of the Participants Committees regarding the same, and

(vi) shall submit to the Participants Committee for approval, the general plan of financing for the Project along with any proposed material changes to such general plan as the same may be proposed from time to time

(B) In the event that, notwithstanding its efforts undertaken in accordance with subsection (A) of this Section 4, AMP-Ohio is unable to supply all of the power and energy contracted for by the Participants hereunder, it shall allocate the power and energy available from the Power Sales Contract Resources among the Participants *pro rata*, on the basis of their respective PSCR Share percentages. During any period AMP-Ohio is unable, despite such efforts, to supply all of the power and energy contracted for by the Participants at their respective Points of Delivery and Secondary Points of Delivery hereunder, AMP-Ohio shall not, absent willful misconduct, be liable to any Participant for damages resulting from such interruption or diminution of service

(C) In the event that at any time Power Sales Contract Resources acquired by AMP-Ohio to supply power and energy to the Participants at the Point of Delivery and their respective Secondary Points of Delivery pursuant to this Contract result in surplus power, surplus energy, surplus Transmission Service or Supplemental Transmission Service capacity, or other surplus rights, products or services that AMP-Ohio believes may be salable to another entity in light of prevailing market conditions and the

affected Power Sales Contract Resource or AMP-Ohio's ability to perform its obligations under this Contract. A sale/lease back or similar financial or operating device appropriate under Prudent Utility Practice where the property sold or leased continues to provide benefits to Power Sales Contract Resources shall not be construed to be governed by the provisions of clause (11) of this subsection (D), if approved by the Participants Committee.

(E) All power sold or made available hereunder shall include the associated capacity, in kilowatts, and AMP-Ohio, upon written request of a Participant, shall provide such Participant with any appropriate certifications reasonably necessary for the Participant to confirm its rights to such capacity for any purpose, including any requirements of the MISO RTO or the PJM RTO.

(F) AMP-Ohio covenants that it shall prior to entering into any such agreements and in consultation with the Participants Committee, adopt, maintain and revise from time to time a written policy respecting any variable rate indebtedness and hedge or swap agreements entered into hereunder, including the circumstances and terms under which any such agreements may be terminated,

(G) AMP-Ohio shall update the Appendices hereto as appropriate hereunder and provide copies of the same to the Participants in a timely manner.

(H) Whenever in this Contract, other than for sales of two (2) months or less pursuant to, for example, Section 18 (A), AMP-Ohio shall be obligated to provide the Participants a right of first refusal with respect to Power Sales Contract Resources, it is understood by the Participants that it may be in the best interests of the Participants for AMP-Ohio to resell such Power Sales Contract Resources immediately and that it may be impracticable for AMP-Ohio to effectively communicate a *bona fide* offer to all the Participants of such Power Sales Contract Resources under the circumstances. Therefore, AMP-Ohio agrees to poll the Participants annually and to maintain a list of those Participants that shall evidence in a written response delivered to AMP-Ohio, their current interest in purchasing Power Sales Contract Resources in excess of their PSCR Shares, provided, however, that AMP-Ohio shall not be liable to any Participant to which AMP-Ohio shall not extend a right of first refusal where AMP-Ohio shall have acted in good faith.

SECTION 5 Rates and Charges, Method of Payment (A) After consultation with the Participants Committee, the Board of Trustees of AMP-Ohio shall establish, maintain and adjust rates or

under this Contract and the cost to AMP-Ohio of renewals and replacements of all Power Sales Contract Resources to the extent not paid for out of working capital or reserves,

(v) the cost of power supply engineering, planning and forecasting incurred by AMP-Ohio in connection with the performance of its obligations under this Contract or in attempting to comply with laws or regulations requiring the same to the extent such laws or regulations are applicable to Power Sales Contract Resources,

(vi) the Service Fees not otherwise charged by AMP-Ohio pursuant to other agreements,

(vii) the costs of Supplemental Transmission Services furnished or procured and paid by AMP-Ohio for the respective Participants as set forth in the Rate Schedule, such costs to be reimbursed to AMP-Ohio by the respective Participants receiving such services and not through the PSR as provided in subsection (C) of this Section 5,

(viii) payments of principal of and premium, if any, and interest on all Bonds, payments which AMP-Ohio is required to make into any fund or account during any period to be set aside for the payment of such principal, premium or interest when due from time to time under the terms of any Trust Indenture (whether, in the case of principal of any Bond, upon the stated maturity or upon prior redemption, including any mandatory sinking fund redemption, under such Trust Indenture), and payments which AMP-Ohio is required to make into any fund or account to establish or maintain a reserve for the payment of such principal, premium or interest under the terms of any Trust Indenture, provided, however, that the amounts required to be included in Revenue Requirements pursuant to this clause (viii) shall not include payments in respect of the principal of any Bonds payable solely as a result of acceleration of maturity of such Bonds and not otherwise scheduled to mature or to be redeemed by application of mandatory sinking fund payments, provided further, however, that the amounts required to be included in Revenue Requirements pursuant to this clause (viii) may include payments in respect of a termination of a hedge or swap agreement

(ix) amounts required under any Trust Indenture to be paid or deposited into any fund or account established by such Trust Indenture (other than funds and accounts referred to in clause

(B) The Revenue Requirements of AMP-Ohio in respect of any Month shall be computed as provided in this Section 5 and shall be paid by the respective Participants through rates and charges as set forth in the Rate Schedule. In determining the rates and charges hereunder, estimated amounts may be utilized until actual data becomes available, at which time any necessary adjustments necessary to true-up the estimates to actual shall be made.

(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 receives delivery of power and energy 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, shall be charged an additional amount equal to the additional cost to AMP-Ohio, 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, and (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.

(D) An estimated initial Rate Schedule is attached as Appendix B hereto. After consultation with the Participants Committee, the Board of Trustees of AMP-Ohio will determine and establish the initial Rate Schedule to be effective, except as provided in subsections (B) and (C) of Section 3, on or about the Commercial Operation Date of the first generating unit of AMPGS, to meet AMP-Ohio's Revenue Requirements. At such intervals as the Board of Trustees of AMP-Ohio shall determine appropriate, but in any event not less frequently than at the end of each quarter during each Contract Year, the Participants Committee and the Board of Trustees of AMP-Ohio shall review and, if necessary, the Board of Trustees shall revise prospectively the Rate Schedule to ensure that the rates and charges under this Contract continue to cover AMP-Ohio's estimate of all of the Revenue Requirements and to recognize, to the extent not inconsistent with this Contract, other factors and changes in service conditions as it determines appropriate. AMP-Ohio shall transmit to each Participant a copy of each revised Rate Schedule, setting forth the effective date thereof, for delivery not less than thirty (30) days prior to such effective date. Each Participant agrees that the revised Rate Schedule, as determined from time to time by the Board of Trustees of AMP-Ohio in accordance with this Section 5, shall be deemed to be substituted for the Rate Schedule previously in effect and agrees to pay for electric power and energy and related Transmission Service made available by AMP-Ohio to it hereunder after the effective date of any revision.

(F) If any Participant does not make a required payment in full in funds available for use by AMP-Ohio (or its designee) on or before the close of business on the due date thereof, a delayed-payment charge on the unpaid amount due for each day over-due will be imposed at a rate per annum equal to the lesser of (i) the maximum rate permitted by law, and (ii) two percent (2%) per annum above the rate available to AMP-Ohio through its short-term credit facilities as the same may be adjusted from time to time, together with any damages or losses incurred by AMP-Ohio, or through AMP-Ohio, any other Participant, as a result of such failure to make timely payment which is not compensated by such delayed-payment charge

(G) In the event of any dispute by any Participant as to any portion of any invoice, such Participant shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to AMP-Ohio not later than one hundred eighty (180) days from the date such payment is due, provided, however, that AMP-Ohio shall not be required to refund any disputed amounts relating to third-party charges if such notice, although timely hereunder, does not afford AMP-Ohio a reasonable opportunity to pursue a claim against such third-party due to the requirements of a Related Agreement, Supplemental Transmission Agreement, RTO or other Transmission Service provider dispute resolution procedures. Such notice shall identify the disputed invoice, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment need be considered or made for disputed charges unless such notice is given. AMP-Ohio shall consider such dispute and shall advise such Participant with regard to its position relative thereto within sixty (60) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount, together with interest (from the date of the disputed payment to the due date of the invoice next submitted to the Participant after such determination) at the rate which would apply under this Contract to overdue payments by such Participant pursuant to subsection (F) of this Section 5, shall be subtracted by AMP-Ohio from the invoice next submitted to such Participant after such determination (and paid by AMP-Ohio to the Participant in funds available for use by the Participant on the due date of such next invoice if, but only to the extent by which, the amount so due to the Participant exceeds the amount of the next invoice). For purposes of this subsection (G), the date of payment by the Participant shall mean the date on which funds in the amount so paid first become available for use by AMP-Ohio (or its designee). Billing disputes and any subsequent adjustments hereunder shall be limited to the two (2) year period

funds other than its Electric System's funds, but it may elect, in its sole discretion, to do so. The obligations of each Participant to make payments under this Section 5 in respect of any Month or other billing period shall be on a "take-or-pay" basis and, therefore, shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, such payment obligations of such Participant shall not be conditioned upon the performance by AMP-Ohio or any other Participant of its obligations under this Contract, or any other agreement, and such payments shall be made whether or not either the first or second generating unit of the AMPGS, any other component of the Project or any other Power Sales Contract Resource is completed, operable, operating and, as long as Bonds issued under Section 15 hereof remain outstanding, notwithstanding the suspension, interruption, interference, reduction or curtailment, in whole or in part, for any reason whatsoever, of the AMP-Ohio Entitlement or the Participant's PSCR Share, including Step Up Power, if any, provided, however, that nothing contained herein shall be construed to prevent or restrict such Participant from asserting any rights which it may have against AMP-Ohio under this Contract or in any provision of law, including institution of legal proceedings.

(J) Proceeds from the sale of Bonds in excess of the amount required for the purposes for which such Bonds were issued and investment income earned on any investments held under the Trust Indenture shall be applied, subject to the provisions of any Trust Indenture, by AMP-Ohio, as approved by the Participants Committee (i)(a) to pay principal or interest on the Bonds, (b) to the purchase or redemption of Bonds prior to their stated maturity, (c) to the payment of costs of renewals and replacements of any property constituting a part of the Power Sales Contract Resources, or as a reserve therefor and (ii) as a credit against the Revenue Requirements. Insurance proceeds, condemnation awards and damages received by AMP-Ohio in connection with any Power Sales Contract Resource and not required to be applied to the restoration, renewal or replacement of facilities, and proceeds from the sale or disposition of surplus property constituting a part of the Power Sales Contract Resources, shall be applied by AMP-Ohio, subject to approval by the Participants Committee, (a) to the purchase or redemption of Bonds prior to their stated maturity, (b) to the payment of costs of renewals and replacements of any property constituting a part of the Power Sales Contract Resources, or as a reserve therefor by deposit to the Reserve and Contingency Fund, or (c) as a credit against Revenue Requirements. Notwithstanding anything contained in the foregoing provisions of this subsection (J), if any Trust Indenture, any instrument of a similar nature relating to borrowings by AMP-Ohio to finance Power Sales Contract Resources or any Related Agreement shall require the application of any amount

load ramping requirements applicable to such Power Sales Contract Resources in accordance with Prudent Utility Practice AMP-Ohio shall use its best efforts to inform each Participant or its agent when such Participant's schedule of power and energy in any hour is increased in order that such minimum loading level requirements can be met AMP-Ohio shall attempt to sell any such excess or otherwise mitigate the impact of such requirements on the Participants and to the extent it cannot, shall impose any such increases equitably In the event any Participant fails to provide AMP-Ohio with the necessary written information for the purpose of AMP-Ohio preparing schedules, AMP-Ohio, in its sole judgment and discretion, shall have the right to estimate a schedule for deliveries to such Participant and use such estimated schedule for purposes of satisfying any scheduling requirements of AMP-Ohio AMP-Ohio shall endeavor to keep each Participant or its agent informed of all matters that may affect such Participant's ability to carry out its responsibilities under the provisions of this Section 6

(C) Provided the same is not inconsistent with any requirements imposed pursuant to subsections (A) and (B) of this Section 6 and provided further that the same does not increase costs to the Participants or AMP-Ohio in scheduling power and energy hereunder, AMP-Ohio shall use all commercially reasonable efforts consistent with Prudent Utility Practice to allow Participants to take full advantage of available tariff or other charge reductions including any grandfathered contractual provisions or settlement arrangements

(D) Any modifications to the scheduling and dispatch protocols set forth in this Section 6 shall be reflected in a revised Appendix I

SECTION 7 Electric Characteristics, Point of Delivery, Measurement of Electric Power and Energy Furnished Electric power and energy to be furnished hereunder shall be alternating current, three phase, 60 Hertz Electric power and energy scheduled pursuant to this Contract shall be delivered at the Participants' respective Secondary Points of Delivery The points of measurement, delivery voltage and other conditions of service shall be as set forth on Appendix C or as otherwise agreed between AMP-Ohio and any Participant or as otherwise determined pursuant to policies and procedures agreed to by AMP-Ohio and the Participants Committee

SECTION 8 Metering (A) Unless otherwise agreed by AMP-Ohio and any Participant, all deliveries of power and energy to such Participant pursuant to this Contract shall be on a scheduled basis

deficiencies, the Participant will cooperate with AMP-Ohio to install the required equipment and will be solely responsible for the costs associated with the equipment. It is further understood that should a Participant designate delivery of power and energy hereunder to some other entity, then such Participant is responsible for arranging for such entity to comply with the provisions of this Section 10.

Non-compliance with this Section 10 shall relieve AMP-Ohio of any responsibility or liability for failure to deliver to any Secondary Delivery Point if, and to the extent, it is unable to do so as a result of a Participant's non-compliance. In such instance, the Participant shall nonetheless be liable for all payments hereunder.

SECTION 11 Force Majeure Neither AMP-Ohio nor any Participant shall be considered to be in default in respect to any obligation hereunder (other than the obligation of each Participant to make payments hereunder) if prevented from fulfilling such obligation by reason of *Force Majeure*. A Party rendered unable to fulfill any such obligation by reason of *Force Majeure* shall exercise due diligence to remove such inability with all reasonable dispatch and such Party shall promptly communicate with the other regarding such *Force Majeure*, its expected length and the actions being taken to remove the same.

SECTION 12 Insurance AMP-Ohio shall maintain, or cause to be maintained, in force, and is authorized to procure insurance with responsible insurers with policies payable to the parties as their interests shall appear, against risk of direct physical loss, damage or destruction, at least to the extent that similar insurance is mandated by law or usually carried by utilities constructing and operating facilities of the nature of the facilities of the Power Sales Contract Resources, including liability insurance, Workers' Compensation and employers' liability, all to the extent available at reasonable cost and subject to reasonable deductible provisions, but in no case less than will satisfy all applicable regulatory requirements and conform to Prudent Utility Practice. AMP-Ohio may procure additional insurance subject to the approval of the Participants Committee. Notwithstanding the foregoing, AMP-Ohio may, to the extent permitted by the Related Agreements, the Trust Indentures and the similar instruments relating to borrowings by AMP-Ohio to finance Power Sales Contract Resources and, subject to the approval of the Participants Committee, self-insure or participate in a program of self-insurance or group insurance to the extent it receives a written opinion of a qualified insurance consultant that such self-insurance, after consideration of any existing or required reserve deposits, is reasonable in light of existing programs of comparable utilities constructing and operating facilities of the nature of the facilities of the Power Sales

(v) each Participant's representatives shall at all reasonable times be given reasonable access to the AMPGS and any other facilities owned by AMP-Ohio that constitute Power Sales Contract Resources

(B) Each Participant shall, upon written request, furnish to AMP-Ohio all such information, certificates, engineering reports, feasibility reports, financial statements, opinions of counsel and other documents as shall be reasonably necessary or useful to AMP-Ohio in connection with the performance of AMP-Ohio's obligations under this Contract, including the issuance and sale of Bonds by AMP-Ohio

(C) AMP-Ohio and each of the Participants will promptly furnish to each other such other information as may be reasonably requested from time to time in order to carry out the intent and purpose of this Contract or as may be reasonably necessary and convenient in the conduct of the operations of the party requesting such information and, in particular, may be necessary or useful in connection with the issuance of Bonds by AMP-Ohio or the issuance of debt by any Participant

(D) The Parties shall accommodate reasonable requests for documents and information made available pursuant to subsections (A), (B) and (C) of this Section 14 via electronic copies, secure internet access or paper copies sent to the requesting Party without charge, unless such request is unduly burdensome on the Party upon whom such request is made. In such case, such documents or information may be made available for inspection only at the offices of the Party in possession of such documents or information with copies to be made available for a reasonable charge. The Parties recognize such information may be proprietary and/or business confidential and agree, to the extent consistent with law, to treat the same as such

SECTION 15 Bonds, Trust Indenture, Power Sales Contract AMP-Ohio is hereby requested and authorized by the Participants to issue Bonds for the purpose of paying Project Costs as well as all or any part of the costs of planning, engineering, siting, permitting, acquiring, constructing, improving, repairing, restoring, renewing or refurbishing Power Sales Contract Resources as provided in Section 4(A) hereof, including, without limitation, reimbursement of all Developmental Costs or to refund any outstanding Bonds, all upon such terms and pursuant to one or more Trust Indentures having such terms as AMP-Ohio, in its sole discretion and exclusive judgment, deems necessary or desirable to enable AMP-Ohio to fulfill satisfactorily its obligations hereunder, provided, however, that AMP-Ohio shall not issue Bonds having a final maturity date extending beyond the later of 2058 or the initial estimated useful

SECTION 17 Additional Covenants of the Participants (A) Each Participant covenants and agrees to establish and maintain rates for electric power and energy to its consumers which shall provide to such Participant revenues at least sufficient, together with other available funds, to meet its obligations to AMP-Ohio under this Contract, to pay all other O&M Expenses, to pay all obligations, whether now outstanding or incurred in the future, payable from, or constituting a charge or lien on, the revenues of its Electric System, and to make any other payments required by law

(B) Each Participant covenants and agrees that, unless this Contract has been assigned pursuant to Section 26 hereof, it shall not sell, lease or otherwise dispose of all or substantially all of its Electric System except on 180 days' prior written notice to AMP-Ohio and, in any event, shall not so sell, lease or otherwise dispose of the same unless AMP-Ohio shall reasonably determine that all of the following conditions are met (i) such Participant shall assign this Contract and its rights hereunder (except as otherwise provided in the last sentence of this subsection (B)) in writing to the purchaser or lessee of the Electric System and such purchaser or lessee, as assignee of rights and obligations of such Participant under this Contract, shall assume in writing all obligations (except to the extent theretofore accrued) of such Participant under this Contract or such Participant shall post a bond or other security, in either case reasonably acceptable to AMP-Ohio, to assure its obligations hereunder are fulfilled and clauses (iv) (a), (b) and (c) are satisfied, (ii) if and to the extent necessary to reflect such assignment and assumption, AMP-Ohio and such assignee shall enter into an agreement supplemental to this Contract to clarify the terms on which power and energy are to be sold hereunder by AMP-Ohio to such assignee, (iii) the senior debt of such assignee shall be rated in one of the four highest whole rating categories, without regard to sub-categories represented by + or – or similar designations, by at least one nationally recognized bond rating agency or if such entity is not rated, AMP-Ohio and any trustee under any Trust Indenture shall receive an opinion from a nationally recognized financial expert that the assignment does not materially adversely affect the security for any Bonds, and (iv) AMP-Ohio shall have received an opinion or opinions of counsel of recognized standing selected by AMP-Ohio stating that such assignment (a) will not adversely affect any pledge and assignment by AMP-Ohio of this Contract or the revenues derived by AMP-Ohio hereunder (other than the Service Fee) as security for the payment of Bonds and the interest thereon, (b) is lawfully permitted under applicable law, and (c) will not affect the regulatory or tax status of AMP-Ohio or any Bonds Notwithstanding the foregoing, if AMP-Ohio reasonably determines that the assignment of this Contract, pursuant to the immediately preceding sentence in connection with the

(D) Each Participant covenants and agrees that it shall, in accordance with Prudent Utility Practice, (i) operate the properties of its Electric System and the business in connection therewith in an efficient manner, (ii) maintain its Electric System in good repair, working order and condition, and (iii) make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to its Electric System, provided, however, that this subsection (D) shall not be construed as requiring such Participant to expend any funds which are derived from sources other than the operation of its Electric System, although nothing herein shall be construed as preventing such Participant from doing so

(E) Each Participant covenants and agrees that it shall not issue bonds, notes or other evidences of indebtedness or incur lease or contractual obligations which are payable from the revenues derived from its Electric System superior to the payment of the O&M Expenses of its Electric System, provided, however, that nothing herein shall limit such Participant's present or future rights (i) to incur lease or contractual obligations that, under generally accepted accounting principles, are operating expenses of its Electric System and that are payable on a parity with O&M Expenses or (ii) to issue bonds, notes or other evidences of indebtedness payable from revenues of its Electric System subject to the prior payment or provision for the payment of the O&M Expenses, including amounts payable under this Contract, of its Electric System

(F) Each Participant covenants and agrees that not later than the date on which it issues bonds, notes or other evidences of indebtedness or incurs capital lease or take-or-pay contractual obligations which are payable from the revenues of its Electric System on a parity with O&M Expenses it will provide to AMP-Ohio, with a copy to the Participants Committee, of an independent engineer's estimation that such issuance or incurrence will not result in total O&M Expenses and debt service in excess of the revenues of the Participant's Electric System adjusted for any rate increases enacted by the Governing Body prior to such issuance or incurrence in the fiscal year immediately preceding the issuance of such obligations

(G) Each Participant agrees to use all commercially reasonable efforts to take all actions necessary or convenient to fulfill all of its obligations under this Contract

(H) Each Participant agrees that, prior to any assignment of its rights under this Contract pursuant to subsection (B) of this Section 17 it shall grant to AMP-Ohio, for the benefit of the remaining

notify all Participants in writing of any default by any other Participant, which remains uncured for thirty (30) days or more

(B) (i) If any Participant shall fail to pay any amounts due under this Contract, or to perform any other obligation hereunder, which failure constitutes a default under this Contract and such default continues for sixty (60) days or more, AMP-Ohio may, in addition to any other remedy available at law or equity, terminate the provisions of this Contract insofar as the same entitle the Participant to a PSCR Share and during such default, the defaulting Participant shall not be entitled to any vote on the Participants Committee or any matter which requires a vote of the Participants, but, the obligations of the Participant under this Contract shall continue in full force and effect AMP-Ohio shall forthwith notify such Participant of such termination

(ii) Upon the termination of entitlement to a PSCR Share as provided in paragraph (i) of this subsection (B), AMP-Ohio shall attempt to sell the defaulting Participant's PSCR share first to other Participants, then to Members who are not Participants and then to other persons, and, to the extent such defaulting Participant's obligations are not thereby fulfilled, each non-defaulting Participant shall purchase, for so long as such default remains uncured, a *pro rata* share of the defaulting Participant's entitlement to its PSCR Share which, together with the shares of the other non-defaulting Participants, is equal to the defaulting Participant's PSCR Share, in kilowatts, as set forth in Appendix A ("Step Up Power"), provided, however, that no such termination shall reduce the defaulting Participant's obligations under paragraph (iii) of this subsection (B), and, provided further, however, that the sum of all such increases for each non-defaulting Participant pursuant to this paragraph (ii) of subsection (B) shall not exceed, without consent of the non-defaulting Participant, an accumulated maximum kilowatts equal to twenty-five percent (25%), or such lesser percentage as set forth in any Trust Indenture, of such non-defaulting Participant's initial PSCR Share in kilowatts as shown on Appendix A prior to any such increases AMP-Ohio shall mail written notice, and may, at its option, also transmit the same by electronic means, to each non-defaulting Participant of the amount of any Step Up Power as soon as practicable All Step Up Power Costs shall be determined consistent with and be treated as a part of Revenue Requirements pursuant to Section 5 and shall be paid by the non-defaulting Participant in accordance with this Contract Notwithstanding the foregoing provision of this Section 18 (B)(ii), within twenty (20) days after the notice of default by any other Participant sent in accordance with Section 18 (A), a Participant may notify AMP-Ohio in writing of its election to purchase voluntarily Step Up Power

Participant's Electric System, or (b) an order, judgment or decree be entered by any court of competent jurisdiction appointing, without the consent of Participant, a receiver or trustee of Participant or of the whole or any part of Participant's Electric System and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof, or if Participant shall file a petition or answer seeking reorganization or any arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, which would place jurisdiction of Participant's Electric System in other than Participant, then, in addition to the remedies specified in subsections (A) and (B) of this Section 18, and any other remedy available under applicable law, including the remedy of specific performance, AMP-Ohio shall have the right and power to, and may, at its sole option, by notice in writing to the Participant, apply for the appointment of a receiver of rents, income and profits of the Participant's Electric System received or receivable by Participant as a matter of right and as security for the amounts due AMP-Ohio without consideration of the value of Participant's Electric System, or the solvency of any person or persons liable for the payment of such amounts, the rents, income and profits of the Participant's Electric System received or receivable by Participant being hereby assigned by Participant to AMP-Ohio as security for payment of the sum or sums now or hereafter secured hereby

(D) Anything in this Section 18 to the contrary notwithstanding, if at any time before the entry of final judgment or decree in any suit, action or proceeding instituted by AMP-Ohio on account of default as defined above, or before the completion of the enforcement of any other remedy under this Contract or law, a defaulting Participant shall pay all sums then payable by their stated terms, and all arrears of interest, if any, upon said sums then outstanding and the charges, compensation, expenses, disbursements, advances and liabilities of AMP-Ohio, and all other amounts then payable by Participant hereunder, and every other default of which AMP-Ohio has notice shall have been remedied to the satisfaction of AMP-Ohio, then and in every such case AMP-Ohio shall, and if such default continued for a period greater than one (1) year, AMP-Ohio may, with the approval of its Board of Trustees and the Participants Committee, and to the extent another Participant has voluntarily "stepped up" for all or a portion of such defaulting Participant's entitlement to its PSCR share pursuant to subsection (B)(11) of this Section 18, with the approval of such other Participant, rescind and annul the declaration of default and its consequences, provided, however, that if any Participant has defaulted and all or any portion of such Participant's PSCR Share has become Step Up Power, such Participant shall cure such default by paying

Related Agreements and all licenses, permits and regulatory approvals necessary for such planning, financing, construction, refurbishment, acquisition, operation and maintenance of AMPGS and any other Power Sales Contract Resources, and it is therefore agreed that this Contract is made subject to the terms and provisions of each Trust Indenture, the Related Agreements and all such licenses, permits, and regulatory approvals

SECTION 21. Modification or Amendment of this Contract Except to the extent otherwise provided herein with respect to changes in Appendices hereto and supplemental agreements entered into pursuant to this Contract, this Contract shall not be amended, modified or otherwise changed except by written instrument executed and delivered by AMP-Ohio and each of the Participants, provided, however that this Contract shall not in any event be amended, modified or otherwise changed in any manner that will 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 any Trust Indenture

SECTION 22 Opinions as to Validity Each Participant, upon execution and delivery of this Contract, shall furnish to AMP-Ohio, substantially in the form of Appendix H hereto, an opinion of counsel retained or employed by such Participant and acceptable to AMP-Ohio. Upon request by AMP-Ohio made from time to time after the Effective Date, each Participant shall furnish AMP-Ohio with a letter from the attorney or firm of attorneys which rendered the foregoing opinion, or such other attorney as shall be acceptable to AMP-Ohio, confirming, as of the date specified in such request, the foregoing opinion delivered upon execution and delivery of this Contract

SECTION 23 Notices and Computation of Time Any notice or demand by any Participant to AMP-Ohio under this Contract shall be deemed properly given if mailed postage prepaid and addressed to AMP-Ohio as set forth in Appendix J. Any notice or demand by AMP-Ohio to any Participant under this Contract shall be deemed properly given if mailed postage prepaid and addressed to the Participant at the address furnished to AMP-Ohio in connection with the execution and delivery of this Contract and set forth on Appendix J. In computing any period of time from any such notice, such period shall commence (i) on the same Business Day that the notice is issued if hand delivered, (ii) at Noon on the first Business Day following the date such notice was issued if delivered by electronic mail, facsimile or by hand-delivery, or (iii) at Noon of the second Business Day following the date such notice was issued if sent by

Contract (other than the Service Fee) as security for the payment of any Bonds, and, upon such assignment, pledge and delivery, AMP-Ohio may grant to such trustee any rights and remedies herein to AMP-Ohio and thereupon any reference herein to AMP-Ohio shall be deemed, to the extent of such rights and remedies and with the necessary changes in detail, to include such trustee which shall be a third party beneficiary of the covenants and agreements of such Participant herein contained

(C) Any Participant may assign to any entity this Contract and its rights hereunder (except as otherwise in the last sentence of this subsection) if all of the following conditions are met (i) AMP-Ohio consents in writing to such assignment, which consent shall not be unreasonably withheld, (ii) the assignment shall be evidenced by a written instrument pursuant to which the assignee shall assume all obligations (except to the extent theretofore accrued) of such Participant under this Contract or such Participant shall post an acceptable bond or other reasonably acceptable security to assure its obligations hereunder are fulfilled and clauses (vi) (a), (b) and (c) of this subsection (C) are satisfied, (iii) if and to the extent necessary to reflect such assignment and assumption, AMP-Ohio and such assignee shall enter into an agreement supplemental to this Contract to clarify the terms on which power and energy are to be sold hereunder by AMP-Ohio to such assignee, (iv) the senior debt of such assignee shall be rated in one of the four highest whole rating categories, without regard to sub-categories represented by + or – or similar designations, at least one nationally-recognized bond rating agency, (v) in the opinion of a nationally recognized financial expert, such assignment will not 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, and (vi) AMP-Ohio shall have received an opinion or opinions of counsel of recognized standing selected by AMP-Ohio stating that such assignment (a) will not adversely affect the pledge and assignment of this Contract or the revenues derived by AMP-Ohio hereunder (other than the Service Fee) as security for payment of Bonds and the interest thereon, (b) is lawfully permitted under the law of the Participant's domicile state, and (c) will not affect the regulatory or tax status of AMP-Ohio or any Bonds AMP-Ohio shall not consent to the assignment of this Contract pursuant to the immediately preceding sentence unless AMP-Ohio and the Participants Committee reasonably determine that such assignment is not expected to result in any increase in the rates and charges to any of the remaining Participants for power and energy and associated Transmission Service made available under this Contract or that the Participants are otherwise expected to be made whole Nothing contained in this subsection (C) shall be construed to prevent or restrict any Participant from issuing mortgage revenue

(B) Good faith mediation shall be a condition precedent to the filing of any litigation in law or equity by any Party against any other Party relating to this Contract except injunctive litigation necessary to solely restrain or cure an imminent threat to the public or employee safety. Before the remedies provided for in this Section 29 may be exercised by any Party, such Party shall give written notice to the other Parties that such Party believes that an event of default or impasse under this Contract may have occurred, specifying the circumstances constituting the event of default or impasse in sufficient detail that the other Parties will be fully advised of the nature of the event of default or impasse. The responding Party shall prepare and serve a written response thereto within ten (10) Business Days of receipt of such notice.

(C) The Parties shall attempt to resolve the controversy by engaging a single mediator, experienced in the subject matter, to mediate the dispute. The mediator shall be mutually selected by the Parties to the controversy and conduct mediation at a location agreed upon by the Parties or absent agreement, by the mediator. Within two (2) Business Days of selection, the mediator shall be furnished copies of the notice, this Contract, response and any other documents exchanged by the Parties. If the Parties and the mediator are unable to settle the same within thirty (30) days from selection, or such other time as the Parties agree, the mediator shall make a written recommendation as to the resolution of the dispute. Each Party, in its sole discretion, shall accept or reject such recommendation in writing within ten (10) Business Days. Should the Parties be unable to agree upon a single mediator within five (5) Business Days of the written response of the responding Party, any Party or the Parties jointly shall petition the Presiding Judge of the Court of Common Pleas of Franklin County Ohio, to appoint a mediator, experienced and knowledgeable in the matters which are the subject of the dispute. Notwithstanding the preceding sentence, the parties reserve the right to file suit or pursue litigation in any court that is otherwise proper with respect to jurisdiction and venue. The Parties' consent to selection of a mediator by the Franklin County Court of Common Pleas shall not constitute consent to jurisdiction of such court or waiver of defenses as to venue or jurisdiction. The costs of the Mediator and the mediation shall be shared equally by the Parties to the dispute.

(D) The Parties may mutually agree to waive mediation or subsequent to mediation waive their right to litigate in Court and, in either case, submit any dispute hereunder to binding arbitration, if permitted by law, before one or more arbitrators pursuant to the Commercial Arbitration Rules of the

become a Participant upon execution so long as (i) such execution is prior to March 1, 2008 or (ii) if after March 1, 2008 if approved by the Participants Committee and AMP-Ohio's Board of Trustees. Notwithstanding the foregoing and the representations of the Participants herein, in the event it is ultimately determined that any Participant failed duly and validly to execute and deliver this Power Sales Contract or that this Power Sales Contract, or any portion hereof, is invalid or unenforceable with respect to any Participant for any reason whatsoever, such determination shall in no way affect the commencement, term, validity or enforceability of this Power Sales Contract with respect to any other Participant or AMP-Ohio.

(B) Unless terminated pursuant to subsection (C) or (D) of this Section 31, this Contract shall remain in effect until February 28, 2057, and thereafter, unless otherwise required by law, until (i) the date the principal of, premium, if any, and interest on all Bonds have been paid or deemed paid in accordance with any applicable Trust Indenture, and (ii) a Super Majority of the Participants recommends this Contract be terminated, provided, however, that each Participant shall remain obligated to pay to AMP-Ohio its respective share of the costs of terminating, discontinuing, disposing of, and decommissioning all Power Sales Contract Resources except those Power Sales Contract Resources which AMP-Ohio, in its sole discretion, elects not to terminate, discontinue, dispose of or decommission in connection with or prior to the termination of this Contract, and provided further, however, that the requirements of subsection (B)(i) are satisfied. In the event that a Super Majority of the Participants does not elect to terminate this Contract, each Participant that so elects may continue to receive its PSCR Share of the power and energy available to AMP-Ohio from such Power Sales Contract Resources at rates which reflect the lack of payments with respect to Bonds pursuant to Subsection 5 (A) (viii) and any Participant that does not so elect may discontinue taking any power and energy hereunder and shall have no other liability hereunder except as specified in this Section 31 (B). Neither termination, cessation of taking power and energy hereunder, nor expiration of this Power Sales Contract shall affect any accrued right, liability or obligation hereunder.

(C) This Power Sales Contract may be terminated by a Super Majority of the Participants (i) at any time prior to AMP-Ohio's giving a notice to proceed to the primary contractor for the construction of the AMPGS or (ii) after such notice but prior to the Commercial Operation Date, if in a Report to the Participants and AMP-Ohio, the Consulting Engineer concludes that AMPGS cannot economically be placed into Commercial Operation, provided, however, that in either case the Participants shall be

hereunder, or to the extent such adverse affects may occur, reasonable and adequate compensation for the benefit of the Participants shall be secured from AMP-Ohio or the participants in AMPGS Unit 3

SECTION 33. Counterparts This Contract may be executed and delivered in counterparts, each of which shall for all purposes be treated as the original hereof and all of which shall constitute a single agreement

SECTION 34. AMPGS Share Allocation As soon as practical after the Effective Date of this Power Sales Contract, as specified in Section 31 (A), there shall be an initial meeting of the Participants held at a time and place determined by AMP-Ohio. Notice for such meeting shall be given to each Participant in writing, mailed, and at AMP-Ohio's option, sent by electronic means not less than seven (7) days prior to such meeting. In addition to such other business that shall properly be determined by the Participants at such meeting in accordance with the Regulations, the Participants shall adopt at such meeting or at a later meeting called for such purpose at such time as 100% of the AMP-Ohio Entitlement is subscribed by Participants, a final allocation of PSCR Shares among the Participants with due regard to, among other things, the total kW available from the AMP-Ohio Entitlement and the amount requested by each Participant, provided, however, that in no case shall a Participant be allocated an PSCR Share less than any minimum amount or greater than any maximum amount specified by such Participant pursuant to the legislative action by such Participant's Utility Governing Body authorizing execution of this Power Sales Contract. Such finalized PSCR Shares, as adopted, shall be reflected on a revised Appendix A and shall total one hundred percent (100%) of PSCR Shares.

SECTION 35. Other Agencies AMP-Ohio and the Participants recognize that certain Michigan and Virginia Participants are, as of the Effective Date, and may continue to be in the future, members of existing joint action agencies, respectively, Michigan South Central Power Agency and Blue Ridge Power Agency. AMP-Ohio may enter into Related Agreements with such Participants and respectively, Michigan South Central Power Agency and Blue Ridge Power Agency, pursuant to which such agencies may, by written agreement between such Agency and each such Agency's member Participants, act on behalf of such Participants for the purposes of this Contract, provided, however, that nothing in such Related Agreements shall relieve any Participant of any obligation incurred hereunder.

ARCADIS

11-06-07A10 31 RCVD

AMENDMENT NO. 1 TO AGREEMENT FOR ENGINEERING SERVICES

WHEREAS, as Agreement was entered into on May 16, 2006 by and between the **CITY OF OBERLIN**, hereinafter called the OWNER, and **ARCADIS U S , INC** , Consulting Engineers of Akron, Ohio, their successors and assigns, hereinafter called the ENGINEER

WITNESSETH THAT

Under said Agreement the OWNER employed ENGINEER to render engineering services in connection with the US 20/SR 58 Infrastructure Planning Study Project of the OWNER, and

WHEREAS, the OWNER and ENGINEER both agree that the scope of services has been revised, and

WHEREAS, the Agreement must therefore be amended to authorize the additional services and payment to the ENGINEER for said services,

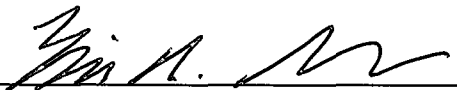
NOW THEREFORE, this 15th day of ~~September~~ OCTOBER, 2007, the OWNER hereby agrees to amend said Agreement with ENGINEER as follows

- 1 Provide additional engineering services as outlined in ENGINEER's August 24, 2007 letter proposal attached as Exhibit A
- 2 Increase original compensation by \$16,500 to a total of \$118,500

IN WITNESS WHEREOF, said parties have made and executed this Amendment No 1 as of the day and year first above written

APPROVED AS TO FORM

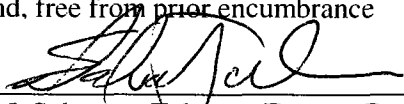
CITY OF OBERLIN, OHIO
(OWNER)


Eric R Severs, Law Director

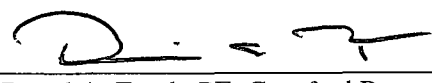
By 
Gary Boyle, Interim City Manager

CERTIFICATION OF AVAILABILITY
OF FUNDS

I hereby certify that the \$16,500 required for this contract has been lawfully appropriated and is in the treasury or is in the process of collection to the credit of the appropriate fund, free from prior encumbrance


I Salvatore Talerico, Finance Director

ARCADIS U S , INC
(ENGINEER)

By 
David A Frank, PE, Certified Project Manager

10/30/07
Date

EXHIBIT A

Mr Jeff Baumann
Public Works Director
City of Oberlin
85 South Main Street
Oberlin, Ohio 44074

Subject
Oberlin, Ohio
U S 20/S R 58 Infrastructure Planning Study
Letter Proposal (revised)

Dear Mr Baumann

We are herewith submitting this letter proposal for additional engineering services for the subject project. This proposal is provided following your request and our recognition of some additional services that have been provided in the draft completion of the report. The following Scope of Services outlines the additional services.

Scope of Services

ARCADIS has performed, or will perform the following services as part of the subject report preparation:

- 1 Prepare for and participate in a meeting with City Administration representatives to plan for the Council Workshop (assumed to be three hours or less)
- 2 Obtain comments and questions from City Council. Prepare for and participate in a City Council Workshop (assumed to be three hours or less)
- 3 Following the Council Workshop, it is anticipated that only minor revisions will be made to the Study, such that the City will return the submitted copies for a few pages and/or figures to the updated
- 4 Meet with Administration representatives to review progress and draft information one additional time not anticipated in the original scope. Receive and process comments, provide responses and make revisions to the draft report on at least one additional occasion not anticipated in the original scope
- 5 Perform research and develop report narratives regarding collaborative opportunities with other utilities in the planning area. This scope item was not included in the approved scope
- 6 Extended project administration costs to support project beyond original 2006 draft completion

ARCADIS U S Inc
520 South Main Street
Suite 2400
Akron
Ohio 44311 1010
Tel 330 434 1995
Fax 330 374 1095
www.arcadis-us.com

WATER RESOURCES
BUSINESS PRACTICE

Date
24 August 2007

Contact
David A Frank, PE

Phone
330 434 1995

Email
Dave.Frank@arcadis-us.com

Our ref
CL000375 R001

Use or disclosure of information contained on this sheet is subject to the restriction and disclaimer located on the signature page of this document

Based on the anticipated, and already expended, effort for the above additional services, we request an increase to our current maximum, not to exceed fee in the amount of \$16,500. The additional services and associated fee may be authorized through an amendment to our current Agreement.

Should you have any questions, please call

Sincerely,

ARCADIS U S , Inc

David A Frank, PE

DAF/lmd

This proposal and its contents shall not be duplicated, used or disclosed—in whole or in part—for any purpose other than to evaluate the proposal. This proposal is not intended to be binding or form the terms of a contract. The scope and price of this proposal will be superseded by the contract. If this proposal is accepted and a contract is awarded to ARCADIS as a result of—or in connection with—the submission of this proposal, ARCADIS and/or the client shall have the right to make appropriate revisions of its terms, including scope and price, for purposes of the contract. Further, client shall have the right to duplicate, use, or disclose the data contained in this proposal only to the extent provided in the resulting contract.