
Memorandum

:

To: Mayor and Members of City Council
cc: City Manager, Finance Director, City Law Director
From: Roxanne
Regarding: General Information
Date: March 19, 2018

CALENDAR

AGENDA–City Council Meeting @7:00 pm

C. APPROVAL OF MINUTES: March 5, 2018

E. REPORTS FROM COUNCIL COMMITTEES

G. INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

1. **Resolution No. 007-18**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the purpose of Repairing the Roller Supports and Insulation of the Waterline located at the City of Napoleon, Ohio Perry Street Bridge, and Authorizing the Sole Sourcing of the Project to JRGO, LLC., and Authorizing the City Manager to Enter into a Contract for said Repairs; and Declaring an Emergency. *(Suspension Requested)*
 - a. *Chad explains the request to sole source in the enclosed Memorandum*
2. **Resolution No. 008-18**, a Resolution Authorizing Contracts with the Townships of Napoleon, Harrison, Freedom, and the Village of Florida, and Henry County South Joint Ambulance District for Fire Service and/or Emergency Medical Service Commencing April 1, 2018; and Declaring an Emergency. *(Suspension Requested)*
3. **Ordinance No. 009-18**, an Ordinance Amending the City of Napoleon Traffic Schedules, specifically Schedule II, "Parking Time Limits" on Certain Streets as Listed in the Attached Exhibit A and Repealing Ordinance No. 037-16; and Declaring an Emergency. *(Suspension Requested)*
4. **Resolution No. 010-18**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the Purpose of Preparing the City of Napoleon's Comprehensive Master Plan with Thoroughfare Plan Provisions in and for the City of Napoleon, Ohio, and to Sole Source said Comprehensive Master Plan to Reveille, LTD.; and Declaring an Emergency. *(Suspension Requested)*
 - a. *Included in the packet, is Chad's Memorandum on the request for sole sourcing this project.*
5. **Ordinance No. 011-18**, an Ordinance Amending a Certain Section of the Personnel Code Chapter 197 of the Codified Ordinances of the City of Napoleon, Ohio; and Declaring an Emergency. *(Suspension Requested)*
6. **Resolution No. 012-18**, a Resolution Amending the City of Napoleon, Ohio BORMA Benefit Plan (Amendment 11).
7. **Ordinance No. 014-18**, an Ordinance Authorizing the City Manager to enter into a Contract or Contracts for the Sale of City Owned Bulk Electric System (BES) 138KV Assets to American Municipal Power, Inc.; and Declaring an Emergency. *(Suspension Requested)*
 - a. *A copy of the proposed "Asset Purchase and Sale Agreement" is enclosed.*

H. SECOND READINGS OF ORDINANCES AND RESOLUTIONS

1. **Resolution No. 006-18**, a Resolution to Amend the City of Napoleon, Ohio Municipal Tax Code Section 194.134© to Correct a Scrivener's Error, Amending the Referenced Language.

I. THIRD READING OF ORDINANCES AND RESOLUTIONS

J. GOOD OF THE CITY (Discussion/Action):

1. Approval of PSCAF Factor for March 2018: PSCAF three-month averaged factor \$0.01929, JV2 \$0.013448 and JV5 \$0.013448.
2. Award of Industrial Drive Reconstruction Project (PID No. 102253).
 - a. *The bid results and Chad's recommendation of award are in the attached Memorandum.*
3. Directing the Law Director to Draft Legislation Supporting the Ohio TAP Grant Application.
 - a. *Please see the enclosed Memorandum from Chad.*
4. Recommendation to Contract with Courtney & Associates for Rate Review Study beginning June 2018.
 - a. *The Water & Sewer Committee made this recommendation at their March 12th meeting.*
5. Recommendation to set a Moratorium on Fees for Single Family Residential Homes Starting in July 2018 and Ending in December 2020 and to bring back to Council in 2020.
 - a. *This is the recommendation of the Municipal Properties Committee.*
6. Appointment to the District 5 Integrating and Executive Committee.

INFORMATIONAL ITEMS

1. Agenda - Tree Commission Meeting; Monday, March 19th at 6:00 pm
2. Cancellation – Parks & Rec Committee

March 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5 6:15 pm Technology Committee 7:00 pm City Council	6	7	8	9	10
11 Daylight Saving Begins	12 6:15 pm BOPA 7:00 pm Water & Sewer Committee 7:30 pm Municipal Properties/ED Committee	13 4:30 pm BZA	14 11:00 am Industrial Drive Bid Opening	15	16	17 Saint Patrick's Day 
18	19 6:00pm Tree Commission 7:00 pm City Council	20	21	22	23	24
25	26 6:30 pm Finance & Budget Committee 7:30 pm Safety & Human Resources Comm	27 4:30 pm Civil Service Commission	28 6:30 pm Parks & Rec Board Mtg.	29	30 - City Offices Closed 	31

CITY COUNCIL

AGENDA

Monday, March 19, 2018 at 7:00 pm

LOCATION: Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

A. Attendance *(Noted by the Clerk)*

B. Prayer and Pledge of Allegiance

C. Swearing-in of Patrolman – Kyle Wright

D. Swearing-in of Fire Captain – Tyler Reiser

E. Approval of Minutes *(in the absence of any objections or corrections, the minutes shall stand approved)*

1. March 05, 2018 Council Meeting Minutes

F. Citizen Communication

G. Reports from Council Committees

1. **Electric Committee** for March 12, 2018 was canceled by the chair.
2. **Water, Sewer, Refuse, Recycling and Litter Committee** met on March 12, 2018; and
 - a. Recommended Council Contract with Courtney & Associates to do a Rate Review Study beginning June 2018.
3. **Municipal Properties, Buildings, Land Use and Economic Development Committee** met on March 12, 2018; and,
 - a. Recommended a Moratorium be set on Fees for Single Family Residential Homes Starting in July 2018 and Ending in December 2020 and to bring back to Council in 2020.

H. Reports from Other Committees, Commissions and Boards *(Informational Only-Not Read)*

1. Board of Zoning Appeals met on March 13, 2018; and
 - a. Approved BZA 18-01.
2. Planning Commission did not meet due to lack of agenda items.
3. Tree Commission met on March 19, 2018 with the agenda items:
 - a. Review Tree Call Reports.
 - b. Plan Arbor Day Observation.
 - c. Spring Contracts Update.
 - d. Award Spring Topsoil Contract.

I. Introduction of New Ordinances and Resolutions

1. **Resolution No. 007-18**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the purpose of Repairing the Roller Supports and Insulation of the Waterline located at the City of Napoleon, Ohio Perry Street Bridge, and Authorizing the Sole Sourcing of the Project to JRGO, LLC., and Authorizing the City Manager to Enter into a Contract for said Repairs; and Declaring an Emergency. *(Suspension Requested)*
2. **Resolution No. 008-18**, a Resolution Authorizing Contracts with the Townships of Napoleon, Harrison, Freedom, and the Village of Florida, and Henry County South Joint Ambulance District for Fire Service and/or Emergency Medical Service Commencing April 1, 2018; and Declaring an Emergency. *(Suspension Requested)*
3. **Ordinance No. 009-18**, an Ordinance Amending the City of Napoleon Traffic Schedules, specifically Schedule II, "Parking Time Limits" on Certain Streets as Listed in the Attached Exhibit A and Repealing Ordinance No. 037-16; and Declaring an Emergency. *(Suspension Requested)*
4. **Resolution No. 010-18**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the Purpose of Preparing the City of Napoleon's Comprehensive Master Plan with Thoroughfare Plan Provisions in and for the City of Napoleon, Ohio, and to Sole Source said Comprehensive Master Plan to Reveille, LTD.; and Declaring an Emergency. *(Suspension Requested)*

5. **Ordinance No. 011-18**, an Ordinance Amending a Certain Section of the Personnel Code Chapter 197 of the Codified Ordinances of the City of Napoleon, Ohio; and Declaring an Emergency. *(Suspension Requested)*
6. **Resolution No. 012-18**, a Resolution Amending the City of Napoleon, Ohio BORMA Benefit Plan (Amendment 11).
7. **Ordinance No. 014-18**, an Ordinance Authorizing the City Manager to enter into a Contract or Contracts for the Sale of City Owned Bulk Electric System (BES) 138KV Assets to American Municipal Power, Inc.; and Declaring an Emergency. *(Suspension Requested)*

J. Second Readings of Ordinances and Resolutions

1. **Resolution No. 006-18**, a Resolution to Amend the City of Napoleon, Ohio Municipal Tax Code Section 194.134R and to Correct a Scrivener's Error, Amending the Referenced Language,

K. Third Readings of Ordinances and Resolutions

L. Good of the City *(Any other business as may properly come before Council, including but not limited to):*

1. **Discussion/Action:** Approval of PSCAF Factor for March 2018: PSCAF three-month averaged factor \$0.01929, JV2 \$0.013448 and JV5 \$0.013448.
2. **Discussion/Action:** Award of Industrial Drive Reconstruction Project (PID No. 102253).
3. **Discussion/Action:** Directing the Law Director to Draft Legislation Supporting the Ohio TAP Grant Application.
4. **Discussion/Action:** Recommendation to Contract with Courtney & Associates for Rate Review Study beginning June 2018.
5. **Discussion/Action:** Recommendation to set a Moratorium on Fees for Single Family Residential Homes Starting in July 2018 and Ending in December 2020 and to bring back to Council in 2020.
6. **Discussion/Action:** Appointment to the District 5 Integrating and Executive Committee.

M. Executive Session. *(as may be needed)*

N. Approve Payment of Bills and Approve Financial Reports *(In the absence of any objections or corrections, the payment of bills and financial reports shall stand approved.)*

O. Adjournment



Gregory V. Heath
Finance Director/Clerk of Council

ITEMS REFERRED OR PENDING IN COMMITTEES OF COUNCIL

1. **Technology & Communication Committee (1st Monday)**
(Next Regular Meeting: April 2, 2018 @6:15 pm)
2. **Electric Committee (2nd Monday)**
(Next Regular Meeting: Monday, April 09, 2018 @6:15 pm)
 - a. Review of Power Supply Cost Adjustment Factor for April 2018
 - b. Status of Transmission Ownership.
 - c. Electric Department Report.
3. **Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)**
(Next Regular Meeting: Monday, April 09, 2018 @7:00 pm)
4. **Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday)**
(Next Regular Meeting: Monday, April 09, 2018 @7:30 pm)
 - a. Updated Information from Staff on Economic Development (as needed)
5. **Parks & Recreation Committee (3rd Monday)**
(Next Regular Meeting: Monday, March 19, 2018 @6:00 pm)
7. **Finance & Budget Committee (4th Monday)**
(Next Regular Meeting: Monday, March 26, 2018 @6:30 pm)
 - a. Municipal Income Tax Code.
8. **Safety & Human Resources Committee (4th Monday)**
(Next Regular Meeting: Monday, March 26, 2018 @7:30 pm)
9. **Personnel Committee (as needed)**
10. **Ad-hoc Committee on Council Rules (as needed)**
- B. **Items Referred or Pending In Other City Committees, Commissions & Boards**
 1. **Board of Public Affairs (2nd Monday)**
(Next Regular Meeting: Monday, April 09, 2018 @6:15 pm)
 - a. Review of Power Supply Cost Adjustment Factor for April 2018
 - b. Status of Transmission Ownership.
 - c. Electric Department Report
 2. **Board of Zoning Appeals (2nd Tuesday)**
(Next Regular Meeting: Tuesday, April 10, 2018 @4:30 pm)
 3. **Planning Commission (2nd Tuesday)**
(Next Regular Meeting: Tuesday, April 10, 2018 @5:00 pm)
 4. **Tree Commission (3rd Monday)**
(Next Regular Meeting: Monday, March 19, 2018 @6:00 pm)
 5. **Civil Service Commission (4th Tuesday)**
(Next Regular Meeting: Tuesday, March 27, 2018 @4:30 pm)
 6. **Parks & Recreation Board (Last Wednesday)**
(Next Regular Meeting: Wed., March 28, 2018 @6:30 pm)
 7. **Privacy Committee (2nd Tuesday in May & November)**
(Next Regular Meeting: Tuesday, May 8, 2018 @10:30 am)
 8. **Records Commission (2nd Tuesday in June & December)**
(Next Regular Meeting: Tuesday, June 12, 2018 @4:00 pm)
 9. **Housing Council (1st Monday of the month after the TIRC meeting)**
 10. **Health Care Cost Committee (as needed)**
(Next Meeting: Friday, April 6, 2018 at 10:00 am)
 11. **Preservation Commission (as needed)**
 12. **Napoleon Infrastructure/Economic Development Fund Review Committee (NIEDF) (as needed)**
 13. **Tax Incentive Review Council (as needed)**
 14. **Volunteer Firefighters' Dependents Fund Board (as needed)**
 15. **Volunteer Peace Officers' Dependents Fund Board (as needed)**
 16. **Lodge Tax Advisory & Control Board (as needed)**
 17. **Board of Building Appeals (as needed)**
 18. **ADA Compliance Board (as needed)**

CITY COUNCIL

MEETING MINUTES

MONDAY, MARCH 05, 2018 AT 7:00 PM

PRESENT

Councilmembers

Dan Baer-Council President Pro-Tem, Jeff Comadoll, Travis Sheaffer, Jeff Mires, Lori Sicclair, Ken Haase

Mayor

Jason P. Maassel

City Manager

Joel L. Mazur

Law Director

Billy D. Harmon

Finance Director/Clerk

Gregory J. Heath

Recorder

Roxanne Dietrich

City Staff

David J. Mack, Chief of Police

Clayton O'Brien, Fire Chief

Chad E. Lulfs, P.E., P.S.; Director of Public Works

Others

Newsmedia, NCTV, Joy Ermie-Henry County Health Department

ABSENT

Councilmember

Joseph D. Bialorucki-Council President,

Call to Order

Council President Pro-Tem Baer called the meeting to order at 7:00 pm with the Lord's Prayer followed by the Pledge of Allegiance.

Approval of Minutes

Hearing no objections or corrections, the minutes from the February 19, 2018 meeting stand approved as presented.

Citizen Communication

Joy Ermie, Director of Community Health Services and Interim Health Commissioner for the Henry County Health Department was present and briefly informed Council of the services provided by the HC Health Department, she noted the health department has been serving Henry County for 99 years. Due to renovations at the Health Department, the annual DAC meeting will be held on March 22nd at 5:30 pm at Azuls, the City usually has representation there. I cannot review the annual report with you tonight, as that will be presented to the board for approval at the March 22nd meeting. Our Open House will be in May and you all are invited to attend.

Councilwoman Sicclair read a letter from Zarin Carr addressed to the Members of Council concerning gun laws and the current debate to allow certain staff members in schools to carry firearms and requested Council to oppose this happening in NAS. In his letter, Mr. Carr acknowledged the leadership of Chief Mack in leading his officers to keep the community safe and also praised Napoleon (Zarin Carr's letter is attached to the minutes and incorporated herein).

Reports from Council Committees

Finance and Budget Committee did not meet on February 26, 2018 due to lack of agenda items.

Safety and Human Resources Committee met on February 26, 2018; and

(1) Recommend the Law Director draft Fire/EMS Contracts with Freedom,

Zarin Carr

CMR 388 Box 1941
APO, AP 96208
+82 010-7636-5024
zarinalexandercarr@gmail.com

February 28, 2018

Napoleon City Council
Napoleon, Ohio 43545

Members of Council,

I want to first begin by introducing myself. Many members on the council know me, whether it be through personal interactions, or letters of support for their reelection. My name is Zarin Carr, and I resided in Napoleon my entire life, until I began my military career in November 2016. Napoleon is a beautiful community - a community with a great education system, small businesses, and strong family values. I had the opportunity to take leave in December 2017, and I could not be more excited to come back to Napoleon. Thus far, I have been stationed in Columbia, South Carolina, Sierra Vista, Arizona, and now I am stationed in a forward deployed environment in South Korea. With everywhere I have been stationed, and the places I have traveled through these numerous duty assignments, my heart still lies with Napoleon. I appreciate what all of you do to continue to grow and develop our great community.

One issue that has made national headlines, and has created fierce debate in every community nationwide, is with regards to gun laws, and if we should strengthen such laws, maintain our current laws, etc. This issue has been brought up due to the recent school shooting that occurred in Florida. During my freshman year of high school (2012-2013) I led a school safety campaign across the district. After the Sandy Hook Elementary Shooting, the community was shaken, as it is now, with regards to how safe our schools currently are. This was prior to the completion of our new school facilities, that are much safer than the previous facilities. During this campaign, I surveyed every staff member in the district that was willing to participate, in addition to the students of the district, and I met with Napoleon Area Schools (NAS) Superintendent Dr. Fogo to discuss the findings, and receive his opinion on the matter. One matter that is currently being debated across our nation is whether to allow certain staff members in schools to carry concealed weapons. I want to address council today and urge you to oppose this happening in NAS. I truly believe that by introducing firearms into schools, there are more risks that are going to be put into play. I spoke with many teachers when I was a freshman, and I have recently spoke to teachers in NAS about this issue in the wake of the Florida school shooting, and they are overwhelmingly opposed to allowing these weapons in schools. I highly recommend that you meet with the Napoleon Police

Department at a future time, and see what options/opinions that they have to increase the safety of the students at our school. We have phenomenal law enforcement in Napoleon. With former police Chief Weitzel's leadership through the numerous years he lead the police department, and now having Chief Mack as the Chief, we have very strong law enforcement that is devoted to protecting our community. I can not speak on behalf of Chief Mack or his agency, but I would not be surprised if he could come up with further measures to ensure the safety of the NAS students and staff members. On a side note, Chief Mack is a very good man, and I feel assured, even being half way across the world, that my community is kept safe through his leadership, and the fine officers he leads.

I want to end with thanking Councilwoman Lori Sinclair for taking the time to read this letter to the Council. I also want to thank each and everyone of you for taking my opinion into consideration with this matter.

Very Respectfully,

Zarin Carr



City of Napoleon, Ohio

Engineering Department

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

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Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: Mayor & City Council
Gregory J. Heath, City Finance Director
Jeff Rathge, Operations Superintendent
Date: March 14, 2018
Subject: Perry Street Bridge Waterline Support & Insulation Repair – Sole Source Request

For several years the City of Napoleon has hired BGL Asset Services, L.L.C. to inspect the waterline that is attached to the underside of the Perry Street Bridge. As part of the inspection services, each year a detailed report is provided outlining the findings. In the 2016 report, it was noted that the roller supports and insulation were in need of repair.

This project was approved to be sole sourced in 2017. However, once the contractor was informed of the bonding requirements, they were unable to perform the work. I was recently contacted by a former employee from BGL Asset Services and informed that BGL is no longer in business. The owner knew he was retiring and was trying to sell the assets. This was the reason he was unwilling to obtain a bond. Recently, JRGO, L.L.C. purchased the assets of BGL and retained BGL's employees, including the individual the City has worked with for the past several years. JRGO offered to honor the quote we received from BGL.

For the 2018 budget, \$50,000 was included to repair one-half of the supports and insulation. Attached is a quote from JRGO (formerly BGL) for one-half of the repairs. The quote from JRGO is \$53,424.36. The additional funding required for this work could be supplied from this same account, 510.6210.53300.

Because of the unique nature of this work, our past experience with the personnel from JRGO, and their intimate knowledge of this waterline, I am requesting that this work be sole sourced to JRGO, L.L.C. in the amount of \$53,424.36.

CEL

RESOLUTION NO. 007-18

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS OVER TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) FOR THE PURPOSE OF REPAIRING THE ROLLER SUPPORTS AND INSULATION OF THE WATERLINE LOCATED AT THE CITY OF NAPOLEON, OHIO PERRY STREET BRIDGE, AND AUTHORIZING THE SOLE SOURCING OF THE PROJECT TO JRGO, LLC., AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR SAID REPAIRS; AND DECLARING AN EMERGENCY

WHEREAS, it has been determined that the waterline attached to the underside of the City of Napoleon's Perry Street Bridge is in need of repair; and,

WHEREAS, this matter was already in the budget with the estimated amount of \$50,000.00, and this matter is being brought before Council again because it has been brought to staff's attention that the quoted cost for this matter could run over the budgeted \$50,000.00 by approximately \$3,747.20, as well over the \$25,000.00 bidding threshold; and,

WHEREAS, JRGO, LLC. was the company that has inspected the waterline at the City of Napoleon's Perry Street Bridge for several years and therefore is familiar with repairs that may be required; and,

WHEREAS, the Council believes it is in the best interest of the City of Napoleon to eliminate the necessity for competitive bidding; **Now Therefore**,

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

Section 1. That, the City of Napoleon authorizes the expenditure of funds in excess of \$25,000.00 from the 2018 Budget for the repair of the roller supports and insulation of the waterline located at the City of Napoleon's Perry Street Bridge.

Section 2. That, Council finds it to be in the best interest of the City to eliminate the necessity for competitive bidding.

Section 3. That, the City Manager is authorized to enter into a contract with JRGO, LLC. to conduct the repairs.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 6. That, this Resolution 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 so that the repairs can be done as soon as possible in hopes of avoiding a complete rebuild, which affect the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to begin the repair process in a timely manner, and for further reasons as stated in the Preamble hereof.

Passed: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE ____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 007-18 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.

Gregory J. Heath, Clerk/Finance Director

RESOLUTION NO. 008-18

A RESOLUTION AUTHORIZING CONTRACTS WITH THE TOWNSHIPS OF NAPOLEON, HARRISON, FREEDOM, AND THE VILLAGE OF FLORIDA, AND HENRY COUNTY SOUTH JOINT AMBULANCE DISTRICT FOR FIRE SERVICE AND/OR EMERGENCY MEDICAL SERVICE COMMENCING APRIL 1, 2018; AND DECLARING AN EMERGENCY

WHEREAS, the Townships of Napoleon, Harrison, and Freedom and the Village of Florida desire to enter into a contract with the City for Fire and/or Emergency Medical Rescue Services as authorized in Section 9.60 and Section 505.44 of the Ohio Revised Code; and,

WHEREAS, the Henry County South Joint Ambulance District of Henry County, Ohio, desires to enter into a contract with the City for Emergency Medical Services as authorized in Section 9.60 of the Ohio Revised Code; **Now Therefore**,

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

Section 1. That, the City Manager is authorized to enter a contract with Napoleon Township, Harrison Township, Freedom Township, and the Village of Florida, all of which are in Henry County, Ohio, for Fire Services and/or Emergency Medical Services, including billing services related thereto; the terms and conditions having been approved by this Council in the form as currently on file in the office of the City Finance Director. The City Manager is authorized to make non-material changes to the contracts as deemed appropriate by the City Manager and approved as to form and correctness by the City Law Director; further, the contracts shall be effective April 1, 2018.

Section 2. That, the City Manager is authorized to enter into a contract with the Henry County South Joint Ambulance District of Henry County, Ohio, for Emergency Medical Services, including billing services related thereto; the terms and conditions having been approved by this Council in the form as currently on file in the office of the City Finance Director. The City Manager is authorized to make non-material changes to the contracts as deemed appropriate by the City Manager and as approved as to form and correctness by the City Law Director; further, the contracts shall be effective April 1, 2018.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon, Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution 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 emergency services to be rendered in a timely manner, emergency services also utilized by the City inhabitants when needed outside the City's jurisdictional boundaries; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. The reason for the Emergency Clause is the fact that this Resolution is necessary to authorize the Contracts with the Townships, the Village of Florida, and the Henry County South Joint Ambulance District to be in force in a timely manner, and for further reasons as stated in the Preamble hereof.

Passed: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE ____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 008-18 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.

Gregory J. Heath, Clerk/Finance Director



City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

www.napoleonohio.com

Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: Mayor & City Council
Gregory J. Heath, City Finance Director
Date: March 19, 2018
Subject: 2017 Downtown Improvements Project – Revised Parking

As part of the above referenced project, a large portion of the downtown parking was modified. I am requesting that Council approve the revisions to the parking schedule as attached to the proposed legislation.

CEL

ORDINANCE NO. 009-18

AN ORDINANCE AMENDING THE CITY OF NAPOLEON TRAFFIC SCHEDULES, SPECIFICALLY SCHEDULE II, "PARKING TIME LIMITS" ON CERTAIN CITY STREETS AS LISTED IN THE ATTACHED EXHIBIT A; AND REPEALING ORDINANCE NO. 037-16; AND DECLARING AN EMERGENCY

WHEREAS, the City Manager, pursuant to authority granted in the Charter of the City of Napoleon, establishes traffic control in the City of Napoleon;

WHEREAS, the current parking time limits and parking restrictions need to be updated on certain City streets as provided in the attached Exhibit A due to the recent Downtown Improvement Project; **Now Therefore**,

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

Section 1. That, the City of Napoleon Ohio hereby amends Schedule II of the City of Napoleon Traffic Schedules to reflect parking time limits and restrictions on certain City streets as provided in the attached Exhibit A.

Section 2. That any changes needed to pages, page numbers, or appendixes are hereby approved to accommodate for the above amendment.

Section 3. That, Ordinance No. 037-16 as existed prior to the enactment of this Ordinance, is repealed in its entirety.

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, 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, therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to enforce the stated changes 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: _____

Joseph D. Bialorucki, Council President

Approved: _____

Jason P. Maassel, Mayor

VOTE ON PASSAGE _____ Yea _____ Nay _____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 009-18 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.

Gregory J. Heath, Clerk/Finance Director

Exhibit A – Ord. No. 009-18

Street	Between	Side	Restriction	Spaces
Clinton St., E.	Perry St./Monroe St.	S	30 Min. (2A-5A) 2 Hour (5A - 6P) Handicapped Parking Only	1
Clinton St., E.	Perry St./Monroe St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-17
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking Only	1
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6 P)	2
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking Only	3
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6 P)	4-18
Clinton St., W.	Scott St./Perry St.	N	No parking except during Church service; and at times of special events approved by Chief of Police.	1 (166 Feet)
Clinton St., W.	Webster St./Scott St.	S	None	1-7
Clinton St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-9
Main St. Parking Lot	Main St./Alley	W	30 Min. (2A - 5A) 2 10 Hour 5A-2A	1-8
Main St. Parking Lot	Main St./Alley	W. Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-11
Main St. Parking Lot	Main St./Alley	W		9-12
Main St. Parking Lot	Main St./Alley	E. Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-10
Main St. Parking Lot	Main St./Alley	E	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-10
Main St. W.	Perry St./Scott St.	S	No parking all day	5-21
Main St. W.	Perry St./Scott St.	N	No parking all day	1-2
Main St. W.	Webster St./Scott St.	S	No Parking (7:30A - 8:30A) No Parking (2:30 P - 3:30P) on	17-27

			school days	
Main St., W.	Scott St./Webster St.	N		1-8
Main St., W.	Scott St./Webster St.	S		1-2
Main St., W.	Webster St./Avon Pl.	N		1-15
Main St., W.	Webster St./Avon Pl.	S	4 Hour (7:30A - 3:30P) on school days	1-2
Main St., W.	Avon Pl./Webster St.	S		3-7
Main St., W.	Avon Pl./Webster St.	S	No Parking (7:30A - 8:30A) No Parking (2:30P - 3:30P) on school days	8-14
Main St., W.	Avon Pl./Webster St.	S	Handicapped Parking Only	15-16
Main St., W.	Webster St./Scott St.	S		28-29
Main St., W.	Perry St./Scott St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Main St., W.	Perry St./Scott St.	N	Handicapped Parking only	1
Main St., W.	Perry St./Scott St.	N	None	2-3
Meekison St.	Perry St./Appian Ave.	Both	No Parking at all times	
Monroe St. Parking Lot	Shelby St./Clinton St., E.	E	County Government use only	1-6
Monroe St. Parking Lot	Shelby St./Clinton St., E.	E	30 Min (2A - 5P)	7-18
Monroe St. Parking Lot	Shelby St./Clinton St., E.	W	30 Min (2A - 5A)	1-16
Monroe St.	Alley/to sign	E	No Parking 8A - 3:30P on school days	1 (50 Feet)
Monroe St.	Sign/Clinton St.	E	No Parking 8A - 9A and 3P - 3:30P school days only	1 (110 Feet)
Monroe St.	Shelby St./Clinton St., E.	W		1-11
Monroe St.	Shelby St./Clinton St.	W	Handicapped Parking only	12
Monroe St.	Washington St., E./Riverview Ave.	W	No Parking	0
Monroe St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) Handicapped Parking only	1
Monroe St.	Clinton St./Washington St.	W	30 Min. (2A - 5A)	2-16
Monroe St.	Washington St./Alley	E	30 Min. (2A - 5A)	1-5
Monroe St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A)	1-14

Oakwood Ave.	Railroad St./Perry St.	W		1-25
Oakwood Ave.	Perry St./Monroe St.	E		1-11
Perry St.	Riverview Ave./Front St.	W	5 Min. - (loading zone)	1 (40 Feet)
Perry St.	Riverview Ave./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-8 2-6, 9
Perry St.	Riverview Ave./Washington St.	E	Handicapped Parking only	9 1, 7-8
Perry St.	Riverview Ave./Washington St.	E	Police use only	10
Perry St.	Shelby St./Railroad St.	E	30 Min. (2A-5P) All Day	9-11
Perry St.	Shelby St./Railroad St.	W	2 Hour	1-6
Perry St.	Clinton St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	1
Perry St.	Clinton St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-11
Perry St.	Clinton St./Washington St.	W	2 Hour (5A - 6P) 30 Min. (2A - 5A) Handicapped Parking only	1, 7
Perry St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-11 2-6, 8-11
Perry St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Perry St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	5
Perry St.	Shelby St./Railroad St.	E	30 Min. (2A - 5A) All Day	10-12
Perry St.	Shelby St./Clinton St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-5
Perry St.	Washington St./Main St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1- 9 4
Scott St.	Clinton St./Washington St.	W	2 Hour (5A - 6P) 30 Min. (2A - 5A)	1-6
Scott St.	Washington St./Main St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-10
Scott St.	Main St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-7

Scott St.	Washington St./Clinton St.	E	2 Hour (5A - 6P) 30 Min. (2A - 5A) Handicapped Parking only	1
Scott St.	Washington St./Clinton St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-5
Scott St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Special Event parking within block only with Chief of Police approval	1 (80 Feet)
Shelby St. Parking Lot	Alley/Perry St.	N	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-13
Shelby St. Parking Lot	Alley/Perry St.	Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-13
Shelby St. Parking Lot	Alley/Perry St.	S	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-11
St. Paul Methodist Church Parking Lot	Washington St./Alley	E	30 Min. (2A - 5A)	1-14
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A)	1-5
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A) Handicap Parking Only	6-7
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A)	8-13
Washington St., E.	Hobson St./Monroe St.	S	30 Min.	1-5
Washington St., E.	Hobson St./Monroe St.	S	5 Min. (loading zone only)	6
Washington St., E.	Hobson St./Monroe St.	S		7-9
Washington St., E.	Hobson St./Monroe St.	N		1-11
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Washington St., E.	Monroe St./Perry St.	S	Sheriff use only	11-13
Washington St., W.	Webster St./Avon Pl.	S		1-5
Washington St., W.	Webster St./Avon Pl.	S	Handicap Parking Only	6
Washington St., W.	Webster St./Avon Pl.	S		7
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A-5A) 2 Hour (5A-6P)	1-5 1, 5

			Handicap Parking Only	
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	6-10 6-7, 9-10
Washington St., E.	Monroe St./Perry St.	S	30 Min.	5
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	14-18
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-4, 6-15
Washington St., E.	Monroe St./Perry St.	N	30 Min.	16
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	17-19
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-10
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	11-12
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	13-22
Washington St., E. W.	Scott St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-6
Washington St., E. W.	Scott St./Perry St. needs restriction sign	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	7
Washington St., E. W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	8-21
Washington St., W.	Scott St./Webster St.	N	Handicapped Parking only 30 Min.	1
Washington St., W.	Scott St./Webster St.	N	30 Min.	2-4
Washington St., W.	Scott St./Webster St.	N		5-7
Washington St., W.	Scott St./Webster St.	S	Special event parking within block only with Chief of Police approval	1 (180 Feet)
Washington St., W.	Scott St./Webster St.	N	No Parking except during Church services and at times of special events approved by Chief of Police	8-10
Webster St.	Washington St./Clinton St.	E	Handicap Parking Only	1
Webster St.	Washington St./Clinton St.	E	4 Hour (7A - 5P) 30 Min. (2A - 5A)	2-5

Webster St.	Washington St./Clinton St.	E	Handicapped Parking only	6-7
Webster St.	Washington St./Clinton St.	E	4 Hour (7A - 5P) 30 Min. (2A - 5A)	8-9
Webster St.	Washington St./Main St.	W	4 Hour (7A - 5P) 30 Min. (2A - 5A)	1-8
Webster St.	Washington St./Main St.	W	Handicapped Parking only	9
Webster St.	Washington St./Main St.	W	18 Hour	10-18
Webster St.	Main St./Washington St.	E	18 Hour	1-17
Webster St.	Washington St./Clinton St.	E	18 Hour	10-22
Webster St.	Clinton St./Washington St.	W	18 Hour	1-22
Briarheath Ave.	Clairmont Ave./Westmont Ave.	W		1-3
Briarheath Ave.	Westmont Ave./Westchester Ave.	W		1-3
Main St. Concrete Parking Lot	Main St./Alley	E (side)		1-5
Main St. Concrete Parking Lot	Main St./Alley	E (side center)		1-3
Main St. Concrete Parking Lot	Main St./Alley	W (side center)		1-3
Main St. Concrete Parking Lot	Main St./Alley	E (side West)		1-4
Main St. Concrete Parking Lot	Main St./Alley	W (side West)		1-4
Main St. Concrete Parking Lot	Main St./Alley	W (side West)	Motorcycle Only	5



City of Napoleon, Ohio

Engineering Department

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

www.napoleonohio.com

Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: Mayor & City Council
Gregory J. Heath, City Finance Director
Date: March 19, 2018
Subject: 2018 City Comprehensive Plan Update – Sole Source Request

Included in the 2018 Budget is the update of the City's Comprehensive Plan. I request that this project be sole sourced to Reveille, LTD. The staff of Reveille prepared the previous Comprehensive Plan for the City of Napoleon, as well as the most recent Comprehensive Plan for Henry County. Staff from Reveille also assisted with the most recent Zoning Code updates for the City of Napoleon.

Because of Reveille's knowledge of the City, Henry County, and our experience working with them, I am requesting that the 2018 City Comprehensive Plan Update be sole sourced to Reveille, LTD.

CEL

RESOLUTION NO. 010-18

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS OVER TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) FOR THE PURPOSE OF PREPARING THE CITY OF NAPOLEON'S COMPREHENSIVE MASTER PLAN WITH THOROUGHFARE PLAN PROVISIONS IN AND FOR THE CITY OF NAPOLEON, OHIO, AND TO SOLE SOURCE SAID COMPREHENSIVE MASTER PLAN TO REVEILLE, LTD.; AND DECLARING AN EMERGENCY

WHEREAS, the City originally adopted a Master Plan in the year 1957; and,
WHEREAS, over the years, changes in the City required revisions to the Master Plan which includes "Thoroughfare Plan" [referred to as "Comprehensive Plan"] and were adopted pursuant to Ordinance No.(s) 017-03 and 008-09; and,

WHEREAS, the preparation of the City of Napoleon's Comprehensive Master Plan was previously approved by City Council in the City of Napoleon 2018 Budget; and,

WHEREAS, the cost to prepare said Master Plan and asset management exceeds twenty-five thousand dollars (\$25,000.00); and,

WHEREAS, the City of Napoleon desires to sole source this project to Reveille, LTD. because of Reveille's intimate knowledge of the City's infrastructure (the staff of Reveille has prepared the previous Comprehensive Master Plan and Zoning Code updates for the City of Napoleon, as well as the most recent Comprehensive Plan for Henry County) will expedite the project; therefore, it is the opinion of this Council that it is in the best interest of the City of Napoleon to eliminate the necessity for competitive bidding and/or quality based selection; **Now Therefore**,

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

Section 1. That, the City of Napoleon authorizes the expenditure of funds in excess of twenty-five thousand dollars (\$25,000.00) to prepare the City of Napoleon's Comprehensive Master Plan with thoroughfare plan provisions in and for the City of Napoleon, Ohio.

Section 2. That, Council finds it to be in the best interest of the City to eliminate the necessity for competitive bidding and/or quality based selection.

Section 3. That, the City Manager is authorized to enter into a Contract with Reveille, LTD. to prepare said Comprehensive Master Plan.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 6. That, this Resolution 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 begin the preparation in a timely manner, which is related to the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE ____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 010-18 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.

Gregory J. Heath, Clerk/Finance Director

ORDINANCE NO. 011-18

AN ORDINANCE AMENDING A CERTAIN SECTION OF THE PERSONNEL CODE CHAPTER 197 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON, OHIO; AND DECLARING AN EMERGENCY

WHEREAS, City Council acknowledges that from time to time it must review the various codes and policies of the City of Napoleon; and,

WHEREAS, City Council now desires to amend the Personnel Code of the City of Napoleon, Ohio; **Now Therefore**,

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

Section 1. That, the City of Napoleon, Ohio does hereby amend and enact Chapter 197.15(a)(3) of the Codified Ordinances of the City of Napoleon, Ohio as follows:

“197.15 MAJOR PAID BENEFITS

(a) Hospital and Medical Benefits

(1) Applicability

This section (Major Paid Benefits) applies to all members or officers of the appointing authority and other full-time regular employees, both classified and unclassified; specifically exempt from this section are members of city council, the mayor, and, except as herein provided, the judge of the municipal court. Section 197.15(d) (Pensions) applies to members of council and the mayor. The judge of the municipal court shall receive City shared contributions towards benefits as contained in this Section 197.15 to the extent permitted by law. Unless specifically authorized for part-time, permanent part-time or temporary employees by this Code or other controlling law, such part-time, permanent part-time or temporary employees are not eligible for major benefits, paid leave, or any other benefits described in this Code.

(2) Scope of Health Benefits

Subject to reasonable cost containment measures, the City provides group hospitalization, surgical, and extended medical benefits for each full-time regular employee in accordance with the benefit schedule provided in the City’s plan as on file in the office of the City Finance Director marked “City of Napoleon Health Benefit Plan (#HBP-1)” and as may be amended from time to time by resolution of Council. The Health Benefit Plan shall include covered services, co-pays and premium contribution.

(3) Preventative Care Wellness Program

The City of Napoleon cares about the health and safety of employees. The goal of a Preventative Care Wellness program is to educate employees on how to use their benefits wisely and to promote participation in health and wellness programs. As determined by the Healthcare Cost Committee, employee premiums may be adjusted for employees that choose to participate or not. In addition, employee incentives may be provided to employees who choose to participate in the wellness

program. Should funding be made available by the healthcare provider, all incentives must be pre-approved by said healthcare provider.
Examples of incentives may include Wellness Fairs, wellness magazine subscriptions, registration fees for walkathons (5k, etc.), athletic shoes, water bottles, fitness trackers, discounted diet programs, discounted gym memberships on-site chair massages, healthy eating cookbooks, etc.
Wellness events and challenges may take place throughout the year to earn incentives. If an employee has an idea for a program or event they are encouraged to submit them to a member on the Healthcare Cost Committee or Human Resources.”

Section 2. That, it is found and determined that all formal action 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 3. That, unless otherwise stated, 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 4. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to effectuate the changes prior to personnel issues that may arise due to the conflict in past practices versus the actual Code; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE _____ Yea _____ Nay _____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 011-17 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.

Gregory J. Heath, Clerk/Finance Director

RESOLUTION NO. 012-18

**A RESOLUTION AMENDING THE CITY OF NAPOLEON, OHIO
BORMA BENEFIT PLAN (AMENDMENT 11)**

WHEREAS, Section 197.15 (a) (2) of the Codified Ordinances (Personnel Code) provides that: Subject to reasonable cost containment measures, the City provides group hospitalization, surgical, and extended medical benefits for each full-time regular employee in accordance with the benefit schedule provided in the City's plan as on file in the office of the City Finance Director marked "BORMA Benefit Plan" and as may be amended from time to time by Resolution of Council. The BORMA Benefit Plan shall include covered services, co-pays, and premium contribution; and,

WHEREAS, the Health Care Cost Committee has recommended to City Council to approve an amended plan as follows: to add a fifty dollar (\$50.00) monthly surcharge to employees' health insurance premiums starting December 7, 2018 to employees that do not complete a wellness check by a licensed physician prior to November 30, 2018. Further, employees that complete the wellness check during the dates of December 1, 2017 through November 30, 2018 and turn in the Preventative Care Physician form by November 30, 2018, will not be assessed a surcharge. New employees will be afforded an opportunity to get a wellness check in their first year prior to being assessed a surcharge; and,

WHEREAS, there was no recommendation to change the health plan in the year 2018 regarding the out-of-pocket in network deductible currently; **Now Therefore**,

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

Section 1. That, upon recommendation of the Health Care Committee, in and for the year 2018, the BORMA Benefit Plan shall be amended to add a fifty dollar (\$50.00) monthly surcharge to employees' health insurance premiums starting December 7, 2018 to employees that do not complete a wellness check by a licensed physician prior to November 30, 2018. Further, employees that complete the wellness check during the dates of December 1, 2017 through November 30, 2018 and turn in the Preventative Care Physician form by November 30, 2018, will not be assessed a surcharge. New employees will be afforded an opportunity to get a wellness check in their first year prior to getting assessed a surcharge.

Section 2. That, Amendment No. 11 to the BORMA Benefit Plan, said Plan and Amendment as currently on file in the office of the City Finance Director is hereby approved and adopted.

Section 3. That, all other provisions of the BORMA Benefit Plan shall remain in full force and effect.

Section 4. That, the BORMA Benefit Plan and this Amendment shall cover all qualified municipal non-bargaining employees of this municipality (City of Napoleon, Ohio) that are expressly covered by the City's health insurance plan as stated in the City's Employment Policy Manual PM2001-1, as amended from time to time and the City's Personnel Code (Chapter 197) of the Codified Ordinances, as amended from time

to time, including the City Manager, City Law Director, and City Finance Director, the Judge of the Napoleon Municipal Court and qualified employees of the Napoleon Municipal Court, and those qualified employees that are members of a collective bargaining unit when such unit is a member of the City's Healthcare Cost Committee. The BORMA Benefit Plan establishes the general qualifications to be a member of the Plan, including, dependents of the employee that qualify for coverage under the terms and conditions of the Plan.

Section 5. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 6. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 7. That, this Resolution shall be in full force and effect at the earliest time permitted by law.

Passed: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE ____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 012-18 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.

Gregory J. Heath, Clerk/Finance Director

ORDINANCE NO. 014-18

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT OR CONTRACTS, FOR THE SALE OF CITY OWNED BULK ELECTRIC SYSTEM (BES) 138KV ASSETS TO AMERICAN MUNICIPAL POWER, INC.; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon, Ohio owns Bulk Electric System (BES) 138KV assets at the Northside Substation and related equipment; 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 capacity and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members (“Members”), such Members, including Municipality, being political subdivisions that operate municipal electric utility systems in Delaware, Indiana, Kentucky, Ohio, Maryland, Michigan, Pennsylvania, Virginia and West Virginia; and,

WHEREAS, recent Federal Energy Regulatory Commission (“FERC”), North American Electric Reliability Corporation (“NERC”) and PJM Interconnection, L.L.C. (“PJM”) regulations require Municipality to become a NERC and PJM transmission owner, thereby substantially increasing the number of regulations imposed upon Municipality; and,

WHEREAS, AMP is willing to purchase Municipality’s transmission facilities in order to relieve Municipality of the transmission owner obligations and responsibilities associated with the ownership and operation of the aforementioned equipment. **Now Therefore,**

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

Section 1. That, The City Manager is hereby authorized to enter into a contract or contracts with AMP for the sale of Bulk Electric System (BES) Transmission Elements and related Protection System equipment and appurtenances.

Section 2. That, any other Ordinances and Resolutions or portions of Ordinances and Resolutions inconsistent herewith are hereby repealed, but any Ordinances and Resolutions or portions of Ordinances and Resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 3. That, it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 4. 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 Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. 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, therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to enter into the stated contract 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: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE ____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 014-18 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.

Gregory J. Heath, Clerk/Finance Director

ASSET PURCHASE AND SALE AGREEMENT

between

THE CITY OF NAPOLEON, OHIO

(Seller)

and

AMERICAN MUNICIPAL POWER, INC.

(Buyer)

Dated ●

ASSET PURCHASE AND SALE AGREEMENT

This Asset Purchase and Sale Agreement (this “Agreement”) is made and entered into this ___ day of _____, 2018 (the “Effective Date”), by and between The City of Napoleon, Ohio, an Ohio municipal corporation (“Seller”), and American Municipal Power, Inc., an Ohio nonprofit corporation (“Buyer”). Seller and Buyer are referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. Seller owns four 138 kV SF6 Siemens breakers and associated equipment, including 138kV current and voltage transformers, wave traps, station post insulators and associated equipment, as more particularly described on Exhibit A (collectively the “Equipment”).

B. Seller also owns certain ancillary equipment used or useful in connection with the operation of the Equipment, including certain galvanized steel structures, substation equipment, insulators, ground components, a bus conductor, fittings, supervisory control and data access equipment, and protection and control panels, as more particularly described on Exhibit B (collectively, the “Ancillary Equipment”).

C. As a result of Seller’s continued ownership of the Equipment, recent Federal Energy Regulatory Commission (“FERC”), North American Electric Reliability Corporation (“NERC”) and PJM Interconnection, L.L.C. (“PJM”) regulations would require Seller to become a NERC and PJM transmission owner, thereby substantially increasing the number of regulations imposed upon Seller, if it continues to own the Equipment.

D. Buyer is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric capacity and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of its members, including Seller.

E. Buyer has been developing certain programs and services to be provided to its participating Members and Buyer is willing to purchase Seller’s Equipment to relieve Seller of the transmission owner obligations and responsibilities associated with the ownership and operation of the Equipment.

F. Seller desires to sell, and Buyer desires to purchase, the Equipment and related rights, as set forth more fully herein (collectively, the “Transferred Assets”) and to provide a lease to Buyer granting access to Buyer to the Transferred Assets and Ancillary Equipment, in the form attached as Exhibit C (the “Lease”), on the terms and conditions set forth in this Agreement. The Lease will, among other things, have a term of 35 years, have a total aggregate rent payment of \$22,000 for the full term of the lease (\$628.57/year), which shall be fully prepaid at the Closing, be renewable for additional 35-year periods so long as Buyer or its successors or assigns own any of the Equipment, or replacements thereof or additions thereto, and shall require Seller to maintain the Ancillary Equipment in a fashion to permit the continued safe and efficient operation of the Equipment.

G. To further protect Buyer's rights to access the Transferred Assets and the Ancillary Equipment, the transfer of the Transferred Assets, Seller agrees to grant to Buyer perpetual easements and rights of way to access, operate, maintain and otherwise deal with the Transferred Equipment and any replacements and substitutions thereof, pursuant to that certain Easement in the form attached as Exhibit D (the "Easement").

H. The Parties seek to enter into an Operation and Maintenance Agreement (the "O&M Agreement"), in the form attached as Exhibit E, pursuant to which Seller agrees to assume certain responsibilities and implement procedures with respect to the operation and maintenance of the Transferred Assets on behalf of Buyer.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations and warranties set forth herein, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Certain Defined Terms. For purposes of this Agreement, in addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings specified:

"Acquisition Proposal" means any inquiry, proposal or offer from any Person (other than Buyer or any of its Affiliates) relating to the direct or indirect disposition, whether by sale, merger or otherwise, of all or a material portion of the Transferred Assets, excluding sales of power or other assets in the ordinary course of business except as would materially interfere with the consummation of the Transactions.

"Affiliate" of a specified Person means any other Person which, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the Person specified. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by contract or otherwise. In no event shall Seller or Buyer be deemed to be "Affiliates" of each other for purposes of this Agreement.

"Approvals" means notices to, and approvals, consents, authorizations and waivers from, Persons who are not Governmental Authorities, other than Buyer and Seller.

"Assigned Contracts" mean those contracts listed on Schedule 3.9(a) attached hereto.

"Business Day" means any day other than Saturday, Sunday, or any day on which banks located in the State of New York or Ohio are authorized or obligated to close.

"Buyer's Required Regulatory Approvals" means all approvals specified on Schedule 4.4(b).

"Capital Projects" means those capital projects listed on Schedule 1.1(a), if any.

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq.

“Closing” means the consummation of the Transactions, as measured on the date Buyer transmits the wire for payment of the Estimated Purchase Price made by or on behalf of Buyer to the order of Seller. The Closing shall be deemed to have occurred at 11:59 p.m. on the Closing Date.

“Commercially Reasonable Efforts” means efforts in accordance with reasonable commercial practice for owners and operators of similar assets and without incurrence of unreasonable expense in light of the objective to be accomplished.

“Contract” means any written agreement, lease, license, option, guaranty, right-of-way, evidence of indebtedness, mortgage, indenture, security agreement, purchase order, promissory note or other contract.

“Dispute” means any dispute, controversy or claim arising out of or relating to this Agreement or the other Transaction Documents, or the Transactions, or the breach, termination or invalidity hereof or thereof.

“Dollars” and “\$” mean the lawful currency of the United States of America.

“Encumbrance” means any lien, deed of trust, easement, right of way, equitable interest, option, right of first refusal, preferential purchase right or similar right, pledge, security interest, mortgage, encumbrance of or exception to title, or other similar lien or encumbrance in or on the Transferred Assets.

“Environmental Law” means all Laws relating to pollution or protection of the environment, natural resources or human health and safety, as the same may be amended or adopted, including Laws relating to Releases or threatened Releases of Hazardous Materials (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Materials, including CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1471 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 8 2601 through 2629; the Oil Pollution Act, 33 U.S.C. §§ 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; and any similar Laws of the State of Ohio or of any other Governmental Authority having jurisdiction over the Transferred Assets; and regulations implementing the foregoing.

“Environmental Matters” means any matter, fact or circumstance relating to the Seller or the Transferred Assets or Transferred Assets, as applicable, pertaining to Environmental Laws, Hazardous Materials, Licenses required pursuant to the Environmental Laws, Releases, and Contracts or Approvals principally related to compliance with the Environmental Laws.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“GAAP” means United States generally accepted accounting principles in effect from time to time.

“Governmental Authority” means any (i) federal, state, local, tribal, municipal, foreign or other government, (ii) any governmental, regulatory or administrative agency, board, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, including NERC and FERC, (iii) any court or governmental tribunal, or (iv) any other organization having governmental, regulatory, administrative, taxing or police powers, in each case acting within the scope of its authority or jurisdiction, provided that neither Party shall be deemed to be a “Governmental Authority” for purposes of determining whether its approval of this Agreement is a required governmental consent or License.

“Hazardous Materials” means any chemicals, materials or substances, in whatever form they exist, in each case, which are regulated as pollutants or contaminants, or as toxic or hazardous under Environmental Law, including petroleum products, asbestos, urea formaldehyde foam insulation, and lead-containing paints and coatings.

“Indebtedness” means indebtedness for borrowed money of a Person, including without duplication: (a) all obligations of the Person evidenced by notes, bonds, debentures or other similar instruments, (b) all obligations of the Person under letters of credit to the extent drawn, (c) obligations of the Person under guarantees by the Person of the Indebtedness of another Person, (d) any obligations of the Person under any capitalized leases, and (e) any obligations of the Person in respect of any interest rate or other hedge agreements.

“Independent Accountant” means _____, or if it is not independent from both Parties or is unwilling or unable to serve, a mutually agreeable nationally recognized independent certified public accounting firm, independent as to both Buyer and Seller, more fully described in Section 2.9.

“Intellectual Property” means the following intellectual property rights, both statutory and common law rights under domestic and foreign Laws, if applicable: (a) copyrights (registered or unregistered) and copyrightable works and registrations and applications for registration thereof; (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress, and registrations and applications for registrations thereof together with all of the goodwill associated therewith; (c) mask works and registrations and applications for registration thereof; (d) patents, as well as any reissued and reexamined patents and extensions corresponding to the patents, and any patent applications, patent disclosures and inventions, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom; (e) computer software programs, applications, data, data bases and related technical documentation; (f) trade secrets and confidential information, including ideas, formulas, compositions, research and development information, customer and supplier lists and information, drawings, specifications, designs, concepts, compilations of information, plans, proposals, methods, techniques, procedures, processes and other know-how and inventions, whether or not patentable and whether or not reduced to practice; and (g) copies and tangible

embodiments thereof (in whatever form or medium), excluding in each case shrink wrapped, click wrapped or other off-the-shelf or other generally commercially available licenses.

“Interim Operational Period” means the period from the Effective Date of this Agreement until the earlier of the Closing or termination of this Agreement.

“Inventory” means (a) Seller’s interest in any inventory or spare parts used primarily in, on or for the Transferred Assets and a proportionate share of other spare parts owned by Seller that are used for the Transferred Assets and other purposes, based on Seller’s reasonable estimates of the total value of the Power Station compared to the Estimated Purchase Price, including Inventory that is in transit to or from the Power Station.

“Knowledge” of a Party means (y) with respect to Seller, the knowledge (after due inquiry) of all the Persons listed on Schedule 1.1(b) and, (z) with respect to Buyer, the knowledge (after due inquiry) of all the Persons listed on Schedule 1.1(c).

“Laws” means all statutes, rules, regulations, ordinances, orders, decrees, injunctions, judgments and codes, or other authorization, ruling or restriction having the force of law of any applicable Governmental Authority.

“Licenses” means registrations, licenses, permits, authorizations, notices to, authorizations of, waivers from and other consents or approvals of Governmental Authorities.

“Maintenance Projects” means those maintenance and repair projects to be performed on or with respect to the Transferred Assets on or before the Closing Date, as set forth on Schedule 1.1(d).

“Major Maintenance Spare Parts” means those parts and equipment typically installed and repaired in connection with all significant maintenance performed during scheduled outages and forced outages that relate to the Transferred Assets.

“Material Adverse Effect” means any one or more changes, events, circumstances, conditions or effects, whether known or unknown, accrued or unaccrued, actual or contingent, that is, or would be reasonably likely to be, materially adverse to the results of operations or condition (physical or financial) of the Transferred Assets, taken as a whole, or the ability of a Party (to which the applicable representation, warranty, covenant or condition relates) to own or operate the Transferred Assets or to consummate the Transactions.

“Permitted Encumbrances” means (a) any Encumbrance for Taxes not yet due and payable or for Taxes that are being contested in good faith by appropriate proceedings, including those that are listed on the Schedules as contested proceedings, (b) any Encumbrance arising by operation of Law not due to the willful violation of Law by Seller or its Affiliates, (c) any other imperfection or irregularity of title or other Encumbrance that would not, individually or in the aggregate, materially detract from the value of, or materially interfere with the present use of, the Transferred Assets, (d) zoning, planning, and other similar limitations and restrictions on, including all rights of any Governmental Authority to regulate, a Transferred Real Property Asset, and (e) those Encumbrances listed on Schedule 1.1(e).

“Person” means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Authority.

“Power Station” means the [Power Station located in Napoleon, Ohio], with a nominal rating of _____ MW as of the Effective Date, and any substitutions and replacements thereof.

“Site” means the real property underlying the Transferred Assets, as more particularly described on Exhibit F, together with all the rights, easements, and appurtenances pertaining thereto.

“Proceeding” means any action, suit, litigation, arbitration, audit, investigation, hearing or other similar proceeding, including any civil, criminal, administrative, or appellate proceeding conducted by any Governmental Authority, third party or any arbitrator, arbitration panel or mediator.

“Prudent Operating Practices” means the practices, methods, standards and procedures that are consistent with Law and are generally accepted, engaged in and followed during the relevant time period by reasonably skilled, competent, experienced, and prudent owners and operators of generating and transmission facilities in the United States similar to the Power Station and which, in the exercise of reasonable judgment in light of the facts known or that reasonably should have been known at the time a decision is made, would reasonably be expected to accomplish the desired result in a manner consistent with applicable Laws, codes and standards, equipment manufacturer’s recommendations, insurance requirements, manuals, environmental protection, good business practices, reliability, safety and expedition and taking into consideration the requirements of all applicable Licenses, Contracts and, from and after the date hereof, this Agreement.

“Release” means any release, spill, emission, leaking, pumping, emptying, dumping, abandonment, dispersal, leaching, migration, injection, deposit, disposal, or discharge of Hazardous Materials into or within the environment, including air, soil, subsurface, strata, surface or groundwater, and water supply.

“Schedule” means a schedule to this Agreement.

“Tax” or “Taxes” means (i) all sales, use or transaction privilege taxes, real or personal property taxes, recordation and transfer taxes, payroll deduction taxes, franchise taxes, taxes on gross or net income or other monetary obligations imposed, assessed or exacted by any Governmental Authority, and (ii) any interest, penalties, adjustments and additions attributable to any of the foregoing, including any liability for any of the foregoing taxes or other items arising as a transferee, successor, by contract or otherwise.

“Tax Return” means any report, return, information return or other information required to be supplied to a taxing authority in connection with Taxes.

“Transaction Documents” means this Agreement and the Closing Agreements and any other agreement, consent, License, Approval or other document or instrument provided in connection with the Transactions.

“Transactions” means the transactions contemplated on the part of each of the Parties, collectively, by this Agreement and the other Transaction Documents.

“Transmission Rights” means all of Seller’s transmission and other rights under _____.

“Warranty Claims” means any claims of Seller arising under any express or implied warranties by the manufacturers, vendors or lessors of any of the Transferred Assets.

1.2 Index of Other Defined Terms.

Defined Term	Reference
“ <u>Agreement</u> ”	<u>Introductory Paragraph</u>
“ <u>Ancillary Equipment</u> ”	<u>Recitals</u>
“ <u>and/or</u> ”	<u>Section 1.3</u>
“ <u>Assumed Liabilities</u> ”	<u>Section 2.3</u>
“ <u>Buyer</u> ”	<u>Introductory Paragraph</u>
“ <u>Buyer Confidential Information</u> ”	<u>Section 5.6(a)(i)</u>
“ <u>Buyer Indemnified Party</u> ”	<u>Section 11.2</u>
“ <u>Casualty Estimate</u> ”	<u>Section 5.10(a)</u>
“ <u>Claim Notice</u> ”	<u>Section 11.4(a)</u>
“ <u>Closing Adjustment</u> ”	<u>Section 2.5</u>
“ <u>Closing Agreements</u> ”	<u>Section 9.1</u>
“ <u>Closing Certificate</u> ”	<u>Section 8.10</u>
“ <u>Closing Date</u> ”	<u>Section 9.1</u>
“ <u>Confidential Information</u> ”	<u>Section 5.6(a)(i)</u>
“ <u>Confidentiality Agreement</u> ”	<u>Section 5.6(e)</u>
“ <u>Cure Period</u> ”	<u>Section 10.1(e)</u>
“ <u>Easement</u> ”	<u>Recitals</u>
“ <u>Effective Date</u> ”	<u>Introductory Paragraph</u>
“ <u>Enforceability Exceptions</u> ”	<u>Section 3.2(b)</u>
“ <u>Equipment</u> ”	<u>Recitals</u>
“ <u>ERISA Affiliate</u> ”	<u>Section 2.4(l)</u>
“ <u>Estimated Adjustments</u> ”	<u>Section 2.7</u>
“ <u>Estimated Closing Statement</u> ”	<u>Section 2.7</u>
“ <u>Estimated Purchase Price</u> ”	<u>Section 2.7</u>
“ <u>Event of Loss</u> ”	<u>Section 5.10</u>
“ <u>Excluded Assets</u> ”	<u>Section 2.2</u>
“ <u>Excluded Liabilities</u> ”	<u>Section 2.4</u>
“ <u>Executive(s)</u> ”	<u>Section 12.9(c)(i)A.</u>
“ <u>Expiration Date</u> ”	<u>Section 11.1(a)</u>
“ <u>FERC</u> ”	<u>Recitals</u>
“ <u>Fundamental Representations</u> ”	<u>Section 11.1(a)</u>
“ <u>includes</u> ” and “ <u>including</u> ”	<u>Section 1.3</u>
“ <u>Indemnitee</u> ”	<u>Section 11.4</u>
“ <u>Indemnitor</u> ”	<u>Section 11.4(a)</u>

“ <u>Indemnity Basket</u> ”	<u>Section 11.2</u>
“ <u>Indemnity Cap</u> ”	<u>Section 11.2</u>
“ <u>Initial Negotiation End Date</u> ”	<u>Section 12.9(c)(i)A.</u>
“ <u>Initial Purchase Price</u> ”	<u>Section 2.5</u>
“ <u>Lease</u> ”	<u>Recitals</u>
“ <u>Losses</u> ”	<u>Section 11.2</u>
“ <u>Manager</u> ”	<u>Section 12.9(c)(i)A.</u>
“ <u>Negotiation Request</u> ”	<u>Section 12.9(c)(i)A.</u>
“ <u>NERC</u> ”	<u>Recitals</u>
“ <u>O&M Agreement</u> ”	<u>Recitals</u>
“ <u>Party</u> ” and “ <u>Parties</u> ”	<u>Introductory Paragraph</u>
“ <u>Pending Claim</u> ”	<u>Section 6.8(d)</u>
“ <u>PJM</u> ”	<u>Recitals</u> [[if needed]
“ <u>Post-Closing Dispute Notice</u> ”	<u>Section 2.8(a)</u>
“ <u>Post-Closing Statement</u> ”	<u>Section 2.8</u>
“ <u>Prorations</u> ”	<u>Section 2.6</u>
“ <u>Purchase Price</u> ”	<u>Section 2.5</u>
“ <u>Referral Date</u> ”	<u>Section 12.9(c)(i)A.</u>
“ <u>Representatives</u> ”	<u>Section 5.6(a)(ii)</u>
“ <u>Schedule Update</u> ”	<u>Section 6.6</u>
“ <u>Seller</u> ”	<u>Introductory Paragraph</u>
“ <u>Seller Indemnified Party</u> ”	<u>Section 11.3</u>
“ <u>Seller Confidential Information</u> ”	<u>Section 5.6(a)(ii)</u>
“ <u>Seller’s Environmental Reports</u> ”	<u>Section 3.7(a)</u>
“ <u>Seller’s Response</u> ”	<u>Section 5.3(d)</u>
“ <u>Subject Property</u> ”	<u>Section 3.8(a)</u>
“ <u>Taking</u> ”	<u>Section 5.10</u>
“ <u>Third Party Claims</u> ”	<u>Section 11.4(a)</u>
“ <u>Transferred Assets</u> ”	<u>Recitals</u>
“ <u>Transferred Intellectual Property</u> ”	<u>Section 3.14</u>
“ <u>Transferred Licenses</u> ”	<u>Section 3.5</u>
“ <u>Transferred Personal Property Assets</u> ”	<u>Section 2.1(b)</u>
“ <u>Transferred Real Property Assets</u> ”	<u>Section 2.1(a)</u>

1.3 Certain Interpretive Matters. In this Agreement, unless the context otherwise requires:

- (a) the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa,
- (b) “includes” or “including” shall mean “including without limitation,” regardless of whether so stated,
- (c) “and/or” shall mean any or all of the conjoined items, references to a Section, Article, Exhibit or Schedule shall mean the applicable Section, Article, Exhibit or Schedule of this Agreement, and reference to a given agreement, instrument or

Law shall be a reference to that agreement, instrument or Law as modified, amended, supplemented and restated from time-to-time,

- (d) this Agreement and any Transaction Documents or other documents or instruments delivered pursuant hereto shall be construed without regard to the identity of the Person who drafted the various provisions of the same,
- (e) the representations, warranties and covenants in this Agreement shall have independent significance. Accordingly, if a Party has breached any representation, warranty or covenant contained in this Agreement in any respect, the fact that there exists another representation, warranty or covenant relating to the same subject matter (regardless of the relative levels of specificity) that the Party has not breached shall not detract from or mitigate the fact the Party is in breach of the first representation, warranty or covenant.
- (f) if any time period set forth in this Agreement expires on a day that is not a Business Day, then the performance period shall be extended until the next Business Day.

1.4 Intention Regarding Classification. The classification of certain items as personal or real property for purposes of this Agreement is intended to be solely for the convenience of reference of the Parties and is not intended as an election to classify, or an admission regarding the classification of, those items as real or personal property, fixtures, improvements or otherwise for any other purposes, including accounting, recordation or perfection of liens, taxation, including real or personal property taxes and transfer taxes, title insurance coverage or any other purposes whatsoever.

ARTICLE 2 BASIC TRANSACTIONS

2.1 Transferred Assets. On the terms and subject to the conditions contained in this Agreement, at Closing, Buyer shall purchase from Seller, and Seller shall sell, convey, assign, transfer and deliver to Buyer, free and clear of all Encumbrances (other than Permitted Encumbrances), all of Seller's right, title and interest in, to and under the following Transferred Assets:

- (a) The "Transferred Real Property Assets" consisting of:
 - (i) the easements in favor of Buyer granted under the Easement Agreement; and
 - (ii) Seller's interest in any real property interests included in the Transferred Personal Property Assets.
- (b) The "Transferred Personal Property Assets" consisting of:
 - (i) The Equipment;
 - (ii) the Transmission Rights;

- (iii) the Assigned Contracts;
- (iv) the Inventory;
- (v) [the Major Maintenance Spare Parts];
- (vi) [the Transferred Licenses];
- (vii) the Transferred Intellectual Property, other than the Intellectual Property set forth on Schedule 2.1(b)(vii) (the “Excluded Intellectual Property”);
- (viii) Seller’s interest in any personal property included in the Transferred Real Property Assets; and
- (ix) Seller’s interest in all unexpired and transferrable manufacturers’ and other third-party warranties, guarantees and outstanding Warranty Claims relating to the Transferred Assets.

2.2 Excluded Assets. No assets, rights, Licenses, Contracts or other property of Seller shall be sold, conveyed, assigned, transferred or delivered to Buyer, other than the Transferred Assets, and the Transferred Assets specifically shall not include any other assets, rights, Licenses, Contracts or other property of Seller (collectively, the “Excluded Assets”).

2.3 Assumed Liabilities. From and after Closing, Buyer shall assume and pay, discharge and perform only those obligations and liabilities first arising after the Closing Date that are related to or incurred in connection with the Assumed Contracts or Transferred Licenses after the Closing Date and other matters noted on Schedule 2.3, if any (collectively, the “Assumed Liabilities”), but excluding in all cases the Excluded Liabilities. Notwithstanding anything in this Agreement or any other Transaction Document to the contrary, Buyer is not assuming any other liability, responsibility or obligation hereunder, and all those liabilities, rights or obligations are deemed to be Excluded Liabilities, as further defined below. By way of clarification, if a liability arose on or prior to the Closing Date, or if it is not clear whether the liability is an Assumed or Excluded liability, the liability shall be an Excluded Liability.

2.4 Excluded Liabilities. Buyer shall neither assume nor be obligated to pay, perform or otherwise discharge or be responsible for any of the liabilities or obligations, except for the Assumed Liabilities. All obligations and liabilities of Seller or its Affiliates relative to the Transferred Assets, other than the Assumed Liabilities are referred to herein as the “Excluded Liabilities.” Seller shall be liable for and shall pay and discharge those Excluded Liabilities of Seller or its Affiliates which directly impact the ownership, funding or operation of the Transferred Assets as and when they become due, except to the extent that and for so long as Seller is reasonably contesting those liabilities or obligations in good faith. Without limiting the foregoing, the Excluded Liabilities include the following:

- (a) liabilities or obligations associated with or arising from the Excluded Assets or other assets that are not part of the Transferred Assets and the ownership, operation and conduct of any business in connection therewith or therefrom, whether before, on or after the Closing;

- (b) any obligations or liabilities of Seller or its Affiliates relating to the Transferred Assets to the extent incurred, arising or accrued (whether or not then known) prior to Closing;
- (c) any of the liabilities or obligations of Seller or any Affiliate of Seller (including any liabilities or obligations under any Tax-sharing agreements) with respect to Taxes, the nonpayment of which could result in a lien on, or that are attributable to the ownership, sale, operation or use of, the Transferred Assets prior to Closing or to the sale of the Transferred Assets pursuant to this Agreement (whether or not the applicable Tax period(s) ends on, before or after Closing), except to the extent Buyer receives a credit to the Initial Purchase Price therefor at or after Closing as provided in Section 2.5 or 2.6;
- (d) liabilities of Seller or its Affiliates or obligations arising from or associated with the failure of Seller or its Affiliates to pay or perform any obligation or other breach by Seller or its Affiliates of any term, covenant or provision of any of their Contracts;
- (e) liabilities of Seller or its Affiliates to third parties for violations of Law, personal injury, tort or any other causes of action associated with or arising from the ownership, use or operation of the Transferred Assets as a result of any event, fact or circumstance arising or occurring on or prior to Closing;
- (f) liabilities of Seller or its Affiliates incurred in connection with its obtaining or failing to obtain any License or Approval or make any filing with any Governmental Authority necessary for it to own or operate any of the Transferred Assets on or before the Closing or to sell, convey, assign, transfer or deliver the Transferred Assets to Buyer hereunder;
- (g) any liability of Seller or its Affiliates representing Indebtedness, including any refinancing thereof;
- (h) any liability or obligation of Seller to any of its Affiliates or arising from or associated with any transactions between Seller and any of its Affiliates;
- (i) any liabilities or obligations of Seller resulting from the violation of, or failure of Seller or any of its Affiliates to comply with Laws and Licenses;
- (j) any liabilities or obligations of Seller resulting from the use, treatment, storage, presence, disposal or Release of Hazardous Materials by or on behalf of Seller on, under, above or from any of the Transferred Real Property Assets or in connection with the development or operation of the Transferred Assets;
- (k) any liabilities or obligations of Seller relating to any Seller employees or any ERISA plan or other employee compensation or benefit plan, program, or arrangement of any kind (including any equity or equity-based or other incentive plan, employment agreement, severance, obligation or other agreement) providing compensation or benefits to employees or other service providers (each, a “Benefit Plan”), maintained by or on behalf of Seller or any corporation, trade, business or entity under common control with Seller, within the meaning of Section 414(b), (c), (m) or (o) of the United States Internal Revenue Code, as amended (the “Code”) or Section 4001 of ERISA (“ERISA Affiliate”), including any liability with respect to any of those plans: (i) for benefits payable under the plan; (ii) to the Pension Benefit Guaranty Corporation under Title IV

of ERISA; (iii) relating to any of those plans that are a multi-employer plan within the meaning of Section 3(37) of ERISA; (iv) for non-compliance with the notice and benefit continuation requirements of COBRA; (v) for noncompliance with ERISA or any other applicable Laws; or (vi) arising out of or in connection with any Proceeding or claim which is brought in connection with any of those plans;

(l) any liabilities or obligations of Seller relating to the employment or termination of employment of any individual by or on behalf of Seller, including discrimination, wrongful discharge, unfair labor practices, constructive termination prior to, before, on or after the Closing Date; and

(m) any costs or expenses for which Seller is liable under this Agreement.

2.5 Purchase Price.

(a) The purchase price for the Transferred Assets shall be Nine Hundred Eighty-Three Thousand, Two Hundred and Twenty-Two Dollars (\$983,222) (the “Initial Purchase Price”). As applicable, after the Closing, the Initial Purchase Price shall be adjusted (the “Closing Adjustments”), without duplication, to account for the Prorations (as defined below). The sum of the Initial Purchase Price and the Closing Adjustments are referred to as the “Purchase Price.”

2.6 Prorations. In addition to and without duplication of any adjustments necessary as a result of Section 5.10, Buyer and Seller agree that the following items relating to the Transferred Assets shall be prorated as of the Closing Date between Buyer and Seller with Seller liable to the extent those items relate to any time on or prior to the Closing Date, and Buyer liable to the extent the items relate to any time after the Closing Date (measured in the same units used to compute the item in question, otherwise measured by calendar days) (the “Prorations”):

(a) personal property Taxes, and any other ad valorem Taxes or assessments representing liens on the Transferred Assets, in each case without regard for whether the Taxes are assessed or due and payable as of the Closing Date; [**All Tax provisions subject to review by the Tax professionals**]

(b) [rent, licensing fees or other fixed regular charges or registration fees payable under leases or Licenses];

(c) [any prepayments under Assigned Contracts, and any prepaid expenses and deposits relating to the Transferred Assets, including security deposits, if any, and rents]; and

(d) any other periodic or recurring charges imposed on or assessed against the Transferred Assets by any Governmental Authority, other than fines and penalties imposed for violations of Law.

In the event that actual Taxes or the actual figures for any of the Prorations are not known or available on the Closing Date, for purposes of determining the Estimated Purchase Price, the Prorations shall be based upon the actual Taxes paid for the most recent year (or other appropriate period) for which actual Taxes paid are available, and based upon the respective amounts accrued through the Closing Date or paid for the most recent year or other, appropriate

period for which those amounts paid are available. The prorated Taxes or other amounts shall be recalculated to reflect those Taxes as set forth on a Tax Return prepared and filed by Buyer in a manner consistent with past practice of Seller except as required by Law and (i) set forth in the Post-Closing Statement (in which case any amounts owed by one Party to another shall be paid in accordance with Section 2.7) or (ii) if unavailable at the time the Post-Closing Statement is prepared and delivered in accordance with Section 2.8, any amounts owed by one Party to the other Party shall be paid to the other Party within ten (10) Business Days of that recalculation. The Prorations shall be based on the actual number of days elapsed (prior to the Closing Date, on the one hand, and from and after the Closing Date, on the other hand) in the year or other applicable period. Seller and Buyer agree to furnish each other documents and other records as may be reasonably requested to confirm all adjustments and Prorations calculated pursuant to this Section 2.6.

[Notwithstanding anything herein to the contrary, with respect to capital expenditures (including those expenditures related to the Capital Projects) or maintenance expenditures (including those expenditures related to the Maintenance Projects), related to any of the Transferred Assets that were authorized by Seller and/or the owners of the Other Power Blocks on or before the Closing Date, Seller shall be liable for all those charges solely to the extent incurred and unpaid for work already done prior to the Closing Date, and Buyer shall be liable for the charges that first are incurred on or after the Closing Date.]

2.7 Estimated Closing Statement. At least fifteen (15) Business Days prior to the Closing Date, Seller, in consultation with Buyer, shall prepare and deliver to Buyer a written estimated closing statement (the “Estimated Closing Statement”) in the format set forth in Exhibit E that shall set forth the Initial Purchase Price, as adjusted to take into account Seller’s best estimate of all Prorations and sums due for Interim Operational Adjustments pursuant to Section 2.6, including a reasonably detailed calculation of each estimated adjustment (the “Estimated Adjustments”) and the revised, estimated Purchase Price (“Estimated Purchase Price”). Within ten (10) Business Days after the delivery of the Estimated Closing Statement by Seller to Buyer, Buyer may object in good faith to the Estimated Adjustments in writing. If Buyer objects to the Estimated Adjustments within the ten (10) day period, the Parties shall attempt to resolve their differences by negotiation. If the Parties are unable to do so prior the Closing Date (or if Buyer does not object to the Estimated Adjustments), the Initial Purchase Price shall be adjusted at Closing by the amount of the Estimated Adjustment.

2.8 Post-Closing Statement. Within sixty (60) days following the Closing Date, Buyer, in consultation with Seller, shall prepare and deliver to Seller a written post-closing statement (“Post-Closing Statement”) that shall set forth its proposed final actual Prorations and sums due for Interim Operational Adjustments pursuant to this Section 2.8, including the amount, if any, by which the final Purchase Price (as proposed by Seller) differs from the Estimated Purchase Price.

(a) **Post-Closing Dispute Notice.** Seller shall have thirty (30) days after its receipt of the Post-Closing Statement to review and make inquiry concerning the Post-Closing Statement. Upon Seller’s written request within twenty (20) days after Seller’s receipt of the Post-Closing Statement, Buyer shall disclose all factual information reasonably requested by Seller relating to the Post-Closing Statement and the accounting methodology used in the preparation thereof.

Seller shall be deemed to have approved the Post-Closing Statement (and the statement shall be final, binding and conclusive for all purposes hereunder) unless it objects thereto in writing (a “Post-Closing Dispute Notice”) prior to the end of the thirty (30) day period or ten (10) days after Buyer has provided the reasonably requested information noted above, whichever is later. If Seller timely delivers a Post-Closing Dispute Notice, the Parties shall attempt to resolve the dispute by negotiation. If the Parties are unable to resolve the dispute within thirty (30) days after any objection, the dispute shall be resolved pursuant to Section 2.9. All items not disputed hereunder shall be deemed final and binding.

(b) The Post-Closing Statement shall become final, binding and conclusive for all purposes hereunder by (i) mutual agreement of the Parties, (ii) failure of the receiving Party to timely deliver a Post-Closing Dispute Notice, or (iii) decision of the Independent Accountant. If, as reflected in the Post-Closing Statement, as finally determined pursuant to Sections 2.8 and 2.9, the final Purchase Price is greater than the Estimated Purchase Price, then Buyer shall promptly (within ten (10) days after the final determination of the Post-Closing Statement) pay to Seller an amount in cash equal to the difference between the final Purchase Price and the Estimated Purchase Price. In the event that, as reflected in the finally determined Post-Closing Statement, the final Purchase Price is less than the Estimated Purchase Price, then Seller shall promptly (within ten (10) days after the final determination of the Post-Closing Statement) pay to Buyer an amount in cash equal to the difference between the final Purchase Price and the Estimated Purchase Price. Payment shall be made by the applicable Party by wire transfer of immediately available funds to an account designated in writing by the receiving Party.

2.9 Independent Accountant. In the event of a timely delivered Post-Closing Dispute Notice pursuant to Section 2.8, the Parties shall attempt in good faith to resolve any differences and issues described in the Post-Closing Dispute Notice as promptly as practicable. If the differences and issues are resolved, then the Post-Closing Statement, as adjusted for any changes agreed upon by the Parties, shall be final, binding and conclusive for all purposes hereunder, absent manifest error. If the Parties have not agreed upon the final Prorations and Closing Adjustments (if any) to the Purchase Price within thirty (30) days following timely delivery of the Post-Closing Dispute Notice pursuant to Section 2.9, then any Party may submit the dispute to the Independent Accountant.

(a) If the named Independent Accountant declines to serve, and the Parties are unable to agree upon a replacement firm within ten (10) Business Days of the date upon which the Independent Accountant declines to serve, Buyer shall provide Seller a list of at least two (2) nationally recognized independent certified public accounting firms, each independent as to Buyer and its Affiliates, which Buyer nominates to serve as the Independent Accountant hereunder. Within five (5) Business Days following receipt of the list, Seller shall select one of the nominees, which shall act as the Independent Accountant hereunder; provided that Seller may not select any nominee unless the nominee is independent as to Seller and its Affiliates. If either Party fails to act within the period specified, the other Party may select an Independent Accountant; provided that the selecting Party must choose an Independent Accountant that is a nationally recognized independent certified public accounting firm, independent as to the Party and its Affiliates; provided, further, that the non-selecting Party must advise the selecting Party if the selected Independent Accountant is not independent as to any Party and its Affiliates.

(b) Buyer and Seller will enter into reasonable and customary arrangements for the services to be rendered by the Independent Accountant under this Section 2.9. The Parties shall instruct the Independent Accountant to resolve solely the items in dispute; provided, that the Independent Accountant may not resolve any dispute in a way as to render the final Purchase Price greater than that which is proposed by Seller or less than that which is proposed by Buyer.

(c) All fees and costs of the Independent Accountant shall be divided equally between Seller and Buyer. The Independent Accountant may hold proceedings and consult experts as it deems necessary or appropriate to resolve the dispute, and shall endeavor to do so within thirty (30) days after being appointed, provided that the Independent Accountant may not change any term of this Agreement or adopt a value greater or lesser than the values proposed by Seller and Buyer. The Parties agree to cooperate with the Independent Accountant and to provide promptly all information reasonably requested by the Independent Accountant, subject to obtaining standard assurances, consistent with Section 5.6, that the information will be kept confidential and used solely for purposes of the dispute resolution performed hereunder and for purposes of enforcing in a court of competent jurisdiction any determination rendered by the Independent Accountant.

(d) The Independent Accountant shall promptly notify all Parties in writing of its findings and determinations, which shall be final, binding and conclusive for all purposes hereunder. Judgment on any findings and determinations by the Independent Accountant under this Section 2.9 may be entered in any court having jurisdiction thereof.

2.10 Purchase Price Allocation.

(a) Within sixty (60) days after the date the Post-Closing Statement becomes final, binding and conclusive pursuant to Section 2.9(b), Buyer shall prepare and deliver to Seller for its review an allocation of an amount equal to the sum of the Purchase Price and Assumed Liabilities properly taken into account for purposes of determining the purchase price for U.S. federal income tax purposes and/or FERC or other applicable accounting practices, among the Transferred Assets in accordance with applicable Law. Within sixty (60) days of its receipt of the allocation, Seller shall (i) notify Buyer that it concurs with the allocations and/or determinations of fair market value, or (ii) provide written comments to the allocations and/or determinations of fair market value. If Buyer and Seller disagree on any aspect of the allocation and/or determination of fair market value, Buyer and Seller agree to use reasonable efforts to resolve any disagreement within sixty (60) days after the date the written comments to the allocation was delivered by Seller. Any allocation of the Purchase Price and the Assumed Liabilities agreed or determined pursuant to this Section 2.10 shall be binding on Buyer and Seller for all Tax reporting purposes, and Buyer and Seller shall not (except with the consent of the other Party or as required by applicable Law or following, and consistent with, the resolution of an IRS audit or a court decision or as needed to give effect to an adjustment to the Purchase Price pursuant to Section 11.6) take inconsistent positions with respect to, and shall each use reasonable efforts to sustain, that allocation in any subsequent Tax audit or similar Proceeding, and each of Buyer and Seller agrees to cooperate with the other in preparing IRS Form 8594, and to furnish the other with a draft copy of the form within a reasonable period before its filing due date. If Buyer and Seller are unable to resolve any disagreement with respect to the allocation

within the sixty (60) day period, the dispute shall be resolved by the Independent Accountant in a manner substantially similar to Section 2.9.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer, except as qualified by or disclosed in the Schedules, as follows (for purposes of this Agreement and the Schedules, a matter disclosed in one section of the Schedules shall be deemed disclosed with respect to other representations and warranties of Seller in this Agreement if it is reasonably apparent on the face of the disclosure of the matter):

3.1 Formation and Power. Seller is a corporation duly formed and existing under the laws of the State of Ohio, is in good standing and qualified to do business in the State of Ohio and has full right, power and authority to conduct its business as it is currently being conducted, to own the Transferred Assets, and to enter into this Agreement and perform all of its obligations with respect to the Transactions, except where the failure to be so qualified or to have such right, power and authority would not have a material effect adverse to Seller's right to consummate the Transactions.

3.2 Binding Obligations of Seller.

(a) The execution, delivery and performance of this Agreement and the Closing Agreements by Seller and the consummation of the Transactions by Seller have been duly and effectively authorized by all necessary actions of Seller. This Agreement has been, and upon their execution, each Closing Agreement will have been, duly executed and delivered by Seller.

(b) This Agreement constitutes the legal, valid and binding obligation of Seller and is enforceable against Seller, and the Closing Agreements will, upon delivery at Closing, constitute the legal, valid and binding obligations of Seller and will be enforceable against Seller, in each case in accordance with the respective terms contained therein, subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application now or hereafter in effect relating to creditors' rights generally and (ii) general principles of equity, regardless of whether enforcement is sought in a Proceeding at law or in equity (collectively, the "Enforceability Exceptions").

3.3 No Breach or Conflict. The execution, delivery and performance by Seller of this Agreement and by Seller of the Closing Agreements to which it is or will be a party, and the consummation of the Transactions by Seller do not: (a) conflict with or result in a breach of any provision of the organizational documents of Seller; (b) subject to obtaining the Licenses identified in Section 3.4(b) or 4.4(b), if any, violate in any material respect any Law applicable to Seller or the Transferred Assets [or result in the suspension or revocation of any Transferred License]; or (c) subject to obtaining the Approvals identified in Section 3.4(a) or 4.4(a), cause a material violation of or result in a material default or give rise to any right of termination, consent, cancellation or acceleration under any of the terms, conditions or provisions of, any note, bond, mortgage or indenture or other material contract by which the Transferred Assets are bound, or result in the creation of any material Encumbrance thereon (other than Permitted Encumbrances).

3.4 Approvals.

(a) Except as set forth on Schedule 3.4(a) or 4.4(a), the execution, delivery and performance of this Agreement and the Closing Agreements to which Seller is or will be a party and the consummation of the Transactions by Seller do not require any Approvals to be obtained by Seller that have not been obtained.

(b) Except as set forth on Schedule 3.4(b) or 4.4(b), the execution, delivery and performance of this Agreement and the Closing Agreements to which Seller is or will be a party and the consummation of the Transactions by Seller do not require any License or any filing with any Governmental Authority to be obtained or made by Seller.

3.5 Licenses. Except as set forth on Schedule 3.5, all Licenses that are held by Seller as a named permittee in connection with the ownership and operation of the Transferred Assets in the manner in which they are currently owned and operated are in full force and effect, and are listed on Schedule 3.5. Seller has delivered to Buyer a true and correct copy of each of the Licenses. Seller has not previously transferred or assigned any right, title or interest under any of the Licenses. To the Knowledge of Seller, there are no proceedings pending or threatened to revoke or modify any License in any material respect.

3.6 Compliance with Law. Except as set forth on Schedule 3.6, (a) the Transferred Assets have been and are currently operated in compliance with all Licenses and all applicable Laws, (b) Seller is not, and has not been, in violation of or in default under any Law applicable to it or the Transferred Assets, and (c) Seller has filed or caused to be filed timely all material forms, reports, statements, and other documents required to be filed by it with all Governmental Authorities with respect to the Transferred Assets, and those filings were prepared in compliance with applicable Law.

3.7 Environmental Matters.

(a) Other than as disclosed in any environmental site report listed on Schedule 3.7(a) (collectively, “Seller’s Environmental Reports”) or described on Schedule 3.7(c), Seller has not conducted or permitted the conduct of operations or activities at the real property underlying the Transferred Real Property Assets (the “Subject Property”) in violation of any Environmental Law. Seller has not received any written notice by a Governmental Authority to Seller or its Affiliates of a material violation of any Environmental Law by Seller or relating to the Subject Property. There are no environmental reports, studies, analyses, tests or monitoring results possessed by Seller or of which Seller is aware pertaining to Hazardous Materials in any regulated amount at, in, on, under or over the Subject Property or the Transferred Assets that would disclose any violation of any Environmental Law.

(b) With respect to the Transferred Assets, Seller has not handled or disposed of any material amount of Hazardous Materials at the Subject Property or otherwise involving any of the Transferred Assets in violation of Environmental Law, or arranged for the disposal of any regulated amount of Hazardous Materials at or from the Subject Property or related to the Transferred Assets in violation of Environmental Law.

(c) Other than as disclosed in Schedule 3.7(c), (i) no written notice or written claim has been filed or threatened against Seller with respect to the Transferred Assets alleging any failure to comply with, or any violation of or liability under, any Environmental Law, (ii) no circumstances that exist with respect to the Subject Property or Transferred Assets that constitute a violation of any Environmental Law or would reasonably be expected to result in a revocation of any License under or in connection with any Environmental Law or to prevent the issuance of any License or permit to Buyer, and (iii) there are no violations of Environmental Law of which Seller has knowledge or that require notification to a Governmental Authority.

(d) Seller is not aware of any change, event, circumstance, condition or effect that has occurred, individually or in the aggregate with other events, relating to Environmental Matters that is or would reasonably be expected to be adverse to the ownership or operation of the Transferred Assets.

3.8 Transferred Assets.

(a) Schedule 3.8(a) contains the separate legal description of the Subject Property. Except in conjunction with the Transactions, none of Seller or any of its Affiliates has entered into any material leases, subleases, licenses, concessions or other agreements granting to any party or parties the right of use or to occupy all or any portion of the Subject Property, other than access easements for third party maintenance or service personnel in the ordinary course of business; the Subject Property is not subject to any commitment, right of first offer, or other arrangement for the sale, transfer or lease thereof to any third party (other than pursuant to this Agreement).

(b) Schedule 3.8(b) contains a complete listing of the Transferred Personal Property Assets, as of the date of this Agreement to be updated as of the business day preceding the Closing Date

(c) Schedule 3.8(c) contains a listing of the Ancillary Equipment to which Buyer shall have access pursuant to the Easement and the Lease for so long as those agreements or grants are in effect.

(d) Except as set forth on Schedule 3.8(d), Seller holds good and marketable title to, and is the record owner of fee simple title to, the Subject Property, the Transferred Assets, the Ancillary Equipment and related rights, free and clear of all Encumbrances, other than Permitted Encumbrances.

3.9 Assigned Contracts. All the Assigned Contracts are listed on Schedule 3.9(a), except to the extent that the Parties agree to add or delete Contracts to or from that schedule before the Closing Date. Seller has provided to Buyer a true and complete copy of each Assigned Contract, including any amendments and modifications thereto. Seller has paid or performed all of its obligations which are currently due under any Assigned Contract. Seller is not, or with notice or lapse of time or both, would not be, in breach of or in default under any provision of any Assigned Contract. Each Assigned Contract is, to Seller's Knowledge, in full force and effect and constitutes a legal, valid and binding agreement, enforceable in accordance with its terms (except for the Enforceability Exceptions). Seller has not given or to its Knowledge received any written notice that any Person intends to cancel or terminate any Assigned Contract. To Seller's Knowledge, there is no breach or default under any Assigned Contract by any other party

thereto, without regard to any provisions relating to notice or lapse of time. Seller has not previously assigned any of its right, title or interest under any Assigned Contract.

3.10 Litigation and Condemnation Proceedings. Other than as listed on Schedule 3.10 hereof, there are no material Proceedings pending or, to Seller's Knowledge, threatened at law or in equity against or relating to any or all of the Transferred Assets or Seller's ownership or operation thereof. There is no condemnation proceeding pending or, to Seller's Knowledge, threatened against any part of the Transferred Assets. There are no Proceedings at law or in equity pending or, to Seller's Knowledge, threatened against Seller or its Affiliates with respect to the Transactions or the Transferred Assets, (i) relating to the execution or delivery of this Agreement, or (ii) which could materially delay, prevent, result in rescission or material modification of or otherwise unwind the Transactions or any material portion thereof.

3.11 Condition of the Transferred Assets. The Transferred Assets are in good operating condition, reasonable wear and tear excepted. Seller has furnished Buyer with copies of all maintenance, operating, performance, financial, warranty and other reports in its possession related to the Transferred Assets as Buyer reasonably requests. Other than as listed on Schedule 3.11, Seller does not have Knowledge of any material defect in any of the Transferred Assets.

3.12 Tax Matters. Excluding any Taxes on gross or net income or gain, Seller has filed or caused to be filed all Tax Returns required to have been filed by or for it (other than those for which extensions were requested and obtained in a timely manner) with respect to any Tax relating to the Transferred Assets (collectively, "Seller's Tax Returns"), and Seller has paid all Taxes that have become due as indicated thereon and that were required to be paid by or for Seller. All of Seller's Tax Returns relating to the Transferred Assets are true, correct and complete in all material respects. Except as set forth on Schedule 3.12, no written notice of deficiency or assessment has been received by Seller from any taxing authority with respect to liabilities for Taxes of Seller in respect of the Transferred Assets, which have not been fully paid or finally settled, or if not fully paid or finally settled, any deficiency and assessment is being contested in good faith through appropriate proceedings. Except as set forth on Schedule 3.12, there are no outstanding agreements or waivers extending the applicable statutory periods of limitation for Taxes of Seller associated with the Transferred Assets. All Taxes required to be withheld, collected or deposited by Seller have been timely withheld, collected or deposited and, to the extent required, have been paid to the relevant Tax authority.

3.13 Financial Statements. [Do you want any reps and warranties regarding the Seller's financial condition? (Seems unnecessary for a transaction of this scope with respect to a municipal counterparty, but can be requested if desired.)]

3.14 Intellectual Property Rights. Schedule 3.14 sets forth all licenses or agreements to which Seller is a party primarily relating to Seller's use of any Intellectual Property in connection with the Transferred Assets, including operating software (collectively, the "Transferred Intellectual Property"). Seller is not infringing in any material respect the Intellectual Property rights of any third party in connection with the operation of the Transferred Assets. Seller has no patents, copyrights, trademarks, service marks or other Intellectual Property rights necessary to own or operate any of the Transferred Assets other than the

Transferred Intellectual Property, and there are no pending applications to obtain any of the same.

3.15 Brokers. No broker, finder, investment banker or other Person is entitled to any brokerage, finder's or other fee or commission in connection with this Agreement or the Transactions based upon any agreements or arrangements or commitments, written or oral, made by or on behalf of Seller or any Affiliate of Seller by which the Transferred Assets or Buyer could be bound, before, from or after Closing.

3.16 Insurance. The Transferred Assets are covered by Seller's insurance policies (the "Seller Insurance Policies"). To Seller's Knowledge, there is no threatened suspension or termination of any Seller Insurance Policy and to its Knowledge no events or circumstances have occurred that could, after expiration of notice and cure periods without remedy, provide the insurer a right to deny coverage. Excluding insurance policies that have expired and been replaced in the ordinary course of business as currently conducted by Seller, no Seller Insurance Policy that is applicable to the Transferred Assets has been canceled (except as requested by the holder thereof) and not replaced. Except as set forth on Schedule 3.16, there are, to Seller's Knowledge, no material pending claims under any of the Seller Insurance Policies. Except as set forth on Schedule 3.16, to Seller's Knowledge, Seller and its Affiliates have since the Seller Date reported all known material claims and incidences to the insurers that have issued current and prior Seller Insurance Policies insuring the Transferred Assets (either specifically or as part of a master insurance policy and whether relating to property or liability) to the extent that any claims or incidences would reasonably be expected to create a covered event under the terms and conditions of the Seller Insurance Policies.

3.17 Absence of Certain Changes. Except as set forth on Schedule 3.17, since January 1, 2017 through the Effective Date, to Seller's Knowledge, no change, event, circumstance, condition or effect has occurred that, individually or in the aggregate with any other changes, events, circumstances, conditions or effects, is or would reasonably be expected to be materially adverse to the ownership or operation of the Transferred Assets.

3.18 Undisclosed Liabilities. Except for liabilities and obligations specifically referred to in Section 2.2 and Section 2.4 and those that are disclosed on Schedule 3.18, Seller has no liability or obligation with respect to the Transferred Assets (whether accrued or unaccrued, known or unknown, absolute or contingent), except for (i) Permitted Encumbrances, (ii) matters that have been recorded pursuant to GAAP on Seller's financial statements, and those obligations that have arisen thereafter in the ordinary course of business, and (iii) those obligations which individually or in the aggregate are not material with respect to the ownership or operation of the Transferred Assets.

3.19 No Other Representations or Warranties. Seller makes, no other representations or warranties except for those expressly made in this Agreement and Seller expressly disclaims all other warranties of any kind, express or implied.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller that the statements contained in this Article 4, except as qualified by or disclosed in the Schedules as follows (for purposes of this Agreement and the Schedules, a matter disclosed in one section of the Schedules shall be deemed disclosed with respect to other representations and warranties of Buyer in this Agreement if it is reasonably apparent on the face of the disclosure of the matter):

4.1 Organization and Power. Buyer is a non-profit corporation organized and existing under the laws of the State of Ohio and has full right, power and authority to enter into this Agreement, to own its assets and to perform all of its obligations with respect to the Transactions.

4.2 Binding Obligations of Buyer.

(a) The execution, delivery and performance of this Agreement and the Closing Agreements by Buyer and the consummation of the Transactions by Buyer have been duly and effectively authorized by all necessary internal actions of Buyer.

(b) This Agreement has been, and upon its execution of each Closing Agreement to which Buyer is a party, each Closing Agreement will have been, duly executed and delivered by Buyer.

(c) This Agreement constitutes the legal, valid and binding obligation of Buyer and is enforceable against Buyer, and the Closing Agreements will, upon delivery at Closing, constitute the legal, valid and binding obligations of Buyer and will be enforceable against Buyer, in each case in accordance with the respective terms contained therein, subject to the Enforceability Exceptions.

4.3 No Breach or Conflict. The execution, delivery and performance by Buyer of this Agreement and of the Closing Agreements to which it is or will be a party, and the consummation of the Transactions by Buyer: (a) do not conflict with or result in a breach of any provision of the organizational documents of Buyer; (b) subject to obtaining the Licenses identified in Section 3.4(b) or 4.4(b), do not violate in any material respect any Law applicable to Buyer or result in the suspension or revocation of any License applicable to Buyer or its performance hereunder; (c) subject to obtaining the Approvals identified in Section 3.4(a) or 4.4(a), do not cause a material violation of or result in a material default or give rise to any right of termination, consent, cancellation or acceleration under any of the terms, conditions or provisions of, any note, bond, mortgage or indenture or other material contract by which Buyer is a party or by which its assets are or may be bound.

4.4 Approvals and Buyer's Required Regulatory Approvals.

(a) Except as set forth on Schedule 3.4(a) or 4.4(a), the execution, delivery and performance of this Agreement and the Closing Agreements and the consummation of the Transactions by Buyer do not require any Approvals to be obtained by Buyer that have not been obtained.

(b) Except as set forth on Schedule 3.4(b) or 4.4(b), the execution, delivery and performance of this Agreement and the Closing Agreements and the consummation of the Transactions by Buyer do not require any material License or any material filing with any Governmental Authority to be obtained or made by Buyer.

4.5 Litigation. There are no Proceedings pending or, to Buyer's Knowledge, threatened against Buyer or its Affiliates with respect to the Transactions at law or in equity, (i) relating to the execution or delivery of this Agreement, or (ii) which would reasonably be expected to delay, prevent, result in rescission or modification of or otherwise unwind the Transactions or any portion thereof.

4.6 Brokers. No broker, finder, investment banker or other Person is entitled to any brokerage, finder's or other fee or commission in connection with this Agreement or the Transactions based upon any agreements or arrangements or commitments, written or oral, made by or on behalf of Buyer or any Affiliate of Buyer.

4.7 No Other Representations or Warranties. Buyer makes, no other representations or warranties except for those expressly made in this Agreement and Buyer expressly disclaims all other warranties of any kind, express or implied.

ARTICLE 5 COVENANTS OF SELLER AND BUYER

5.1 Efforts to Close.

(a) **Commercially Reasonable Efforts.** Subject to the terms and conditions provided herein, each of the Parties agrees to use its Commercially Reasonable Efforts to close, consummate and make effective the Transactions, and for the satisfaction of all other conditions to Closing set forth herein that it is required to satisfy (or to cause to be satisfied) to proceed with Closing. Those actions shall include:

- (i) exerting Commercially Reasonable Efforts to obtain or transfer, as applicable, all Licenses, Transferred Licenses and Approvals set forth on Schedules 3.4(a) and (b) and Schedule 3.5 (in the case of Seller) (including reasonable expenditure of funds or other consideration, in all cases to the extent reasonably related to obtaining or transferring by the Party the Licenses, Transferred Licenses and Approvals required of it);
- (ii) diligently pursuing and exerting Commercially Reasonable Efforts to obtain all Approvals as set forth on Schedule 4.4(a) and Buyer's Required Regulatory Approvals set forth on Schedule 4.4(b) (in the case of Buyer) (including expenditure of reasonable funds or other consideration, in all cases to the extent reasonably related to obtaining by the Party the Licenses and Approvals required of it), as applicable, and all other necessary registrations and filings; and
- (iii) exerting Commercially Reasonable Efforts to, by the Closing Date obtain approval of any necessary third parties for which the Party is responsible to obtain.

(b) **Coordination with Other Party.** Without limiting the foregoing, each Party, as promptly as practicable, shall use its Commercially Reasonable Efforts to (A) take or cause to be taken all other commercially reasonable actions necessary and proper to fulfill its obligations hereunder; and (B) coordinate and cooperate with the other Party in providing information and

supplying assistance as may be reasonably requested by the other Party in connection with the foregoing.

(c) **No New Submission to Regulation.** Notwithstanding the foregoing, no Party's obligation to use Commercially Reasonable Efforts shall be construed as requiring the Party, at any time, to (i) acknowledge the applicability of any Law to the Party or the jurisdiction of any Governmental Authority over the Party that does not currently apply to or have jurisdiction over the Party, respectively, or (ii) accept any new material condition, requirement or restriction purported to be imposed on the Party by any Governmental Authority in connection with these Transactions, in each case unless the Party expressly agrees in writing (or it has been determined by a court of competent jurisdiction) that the Party is subject to that Law, jurisdiction, approval or condition.

(d) **Control over Proceedings; Communications.** Except as otherwise indicated herein, all analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of a Party before any Governmental Authority in connection with the approval of the Transactions shall be subject to the control of the Party. The Parties will use Commercially Reasonable Efforts to consult and cooperate with one another, and will consider in good faith the views of one another, in connection with that analysis, appearance, presentation, memorandum, brief, argument, opinion and proposal. Each Party shall provide prompt notification to the other Party when any License or Approval required to be obtained by the notifying Party is obtained, taken, modified or given, as applicable. Each Party will advise the other Party of any material communications with and, unless precluded by Law, provide copies of all written communications (including each report, schedule or other document filed by Seller or Buyer) to or from Governmental Authorities relating to the Transactions.

5.2 Expenses. Whether or not the Transactions are consummated, except as otherwise provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the Transactions shall be paid by the Party incurring those expenses, and _____ shall pay the filing fees and expenses in connection with any filing it makes with FERC in connection with the Transactions. Notwithstanding the foregoing, documentary transfer fees, if any, and recording costs and charges respecting real property shall be shared by the Parties equally unless otherwise provided herein.

5.3 Tax Matters.

(a) Subject to Section 5.2, all transfer, documentary, sales, use, stamp, registration, value added and other Taxes and fees (including any penalties and interest) incurred in connection with this Agreement, the Lease, the Easement and other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be borne by Seller. Seller shall, at its own expense, timely file any Tax Return or other document with respect to those Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).

(b) With respect to Taxes prorated in accordance with Section 2.6(a) of this Agreement, Seller shall prepare and timely file all Tax Returns which it is required to file with respect to periods ending on or prior to Closing and shall duly and timely pay all Taxes shown to be due on the Tax Returns, and shall provide copies of those Tax Returns and evidence of payment to

Buyer. Buyer shall promptly reimburse Seller for any Taxes reflected on any Tax Return that are the responsibility of Buyer under Section 2.6(a) to the extent Seller has not received a credit in that amount against the Purchase Price. Seller shall promptly notify Buyer of any notice of any claim or Proceeding pending in respect of the Tax Returns (or any significant developments with respect to ongoing claims or Proceedings in respect of those Tax Returns). Seller shall consult with Buyer regarding the conduct and resolution of all those claims or Proceedings.

(c) Each Party shall use Commercially Reasonable Efforts to cooperate fully with the other Party, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns pursuant to this Agreement and any Proceeding with respect to Taxes associated with the Transactions. Cooperation shall include the retention and (upon the other Party's written request and subject to confidentiality agreements reasonably satisfactory to the disclosing party) the provision of records and information which are reasonably relevant to any Proceeding and making employees (to the extent the employees were responsible for the preparation, maintenance or interpretation of information and documents relevant to Tax matters or to the extent required as witnesses in any Tax Proceedings), available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Each Party agrees to retain all of its books and records with respect to Tax matters pertinent to the Transferred Assets relating to any taxable period beginning before the Closing Date until the expiration of the applicable statute of limitations and to abide by all record retention agreements entered into with any taxing authority.

(d) Any dispute that arises between Seller and Buyer as to the amount of Taxes or their respective shares thereof shall be resolved by the Independent Accountant in a manner substantially similar to that provided in Section 2.9.

(e) Seller shall provide Buyer with cost information available to it for the Transferred Assets to enable Buyer to comply with FERC accounting requirements, if applicable, or other legal or accounting requirements.

5.4 Post-Closing Delivery and Retention of Records. Within ten (10) days following Closing, Seller shall deliver to Buyer all books, records and data pertaining exclusively to the Transferred Assets (other than those relating to the financial performance of Seller) in Seller's possession or control or reasonably available to Seller, in each case other than Excluded Assets; provided, that, any electronic correspondence and files stored on equipment and media that are not material need not be delivered, but shall be provided as reasonably requested by Buyer. Seller shall be entitled to make at its own expense and retain copies of the records pertaining to the Transferred Assets as needed in connection with Tax Returns or other filings with or notices to Governmental Authorities. Each Party shall (a) hold all records pertaining to the Transferred Assets and not destroy or dispose of any records for a period of seven (7) years following the Closing Date, or if any records pertain to any Proceeding pending at the conclusion of the seven-year period, until the Proceeding is finally resolved and the time for all appeals have been exhausted, and (b) for seven (7) years following Closing, allow the other Party and its accountants and counsel upon reasonable request, during normal business hours, reasonable access to the records pertaining to the Transferred Assets which it holds (other than those constituting Excluded Assets) at no cost, other than costs of copying and other reasonable out-of-pocket expenses; provided, however, that these obligations will not apply to any records subject

to any attorney-client privilege; and provided, further, that in the event of any Proceeding relating to the Transferred Assets, nothing herein shall limit either Party's rights of discovery under applicable Law.

5.5 Post-Closing Cooperation. After Closing, upon prior reasonable written request, each Party shall use Commercially Reasonable Efforts to cooperate with the other Party in further evidencing and consummating the Transactions. The requesting Party shall reimburse the cooperating Party for any reasonable out-of-pocket expenses paid or incurred by the cooperating Party as a result of any requested cooperation.

5.6 Confidentiality.

(a) **Pre-Closing Period.**

- (i) Unless and until the Closing occurs, (x) Seller shall keep confidential, except as may be approved in writing by Buyer, or as may be required under applicable Law (subject to Section 5.6(a)(ii) below), (1) any and all information received by or in the possession of Seller from Buyer in connection with the Transactions on or after the Effective Date relating to Buyer's business, assets, operations or prospects, which is either non-public, confidential or proprietary, or (2) any and all analyses, compilations, data, studies or other documents prepared by or for Buyer relating to the Transferred Assets or the Power Station that contains information described in clause (1) above (the "Buyer Confidential Information") and (y) Buyer shall keep confidential, except as may be approved in writing by Seller, or as may be required under applicable Law (subject to Section 5.6(a)(ii) below) (1) any and all information received by or in the possession of Buyer relating to Seller's business, assets, operations or prospects and/or relating to the Transferred Assets which is either non-public, confidential or proprietary, or (2) any and all analyses, compilations, data, studies or other documents prepared by or for Buyer or Seller relating to the Transferred Assets or Seller and its Affiliates (collectively, the "Seller Confidential Information," and together with the Buyer Confidential Information, the "Confidential Information"). Without limiting the foregoing, "Confidential Information" shall also include the terms of the proposed Transactions between Seller and Buyer, including the Purchase Price.
- (ii) Notwithstanding Section 5.6(a)(i), (x) Seller and Buyer shall be entitled to the extent necessary for the performance of their respective duties hereunder to disclose Confidential Information of the other Party exclusively to those of its affiliates' respective officers, directors, employees, consultants, attorneys, agents, advisors, actual and prospective financing sources and other representatives who are directly concerned with or affected by the carrying out of the Parties' duties under this Agreement, who have a need to know that Confidential Information in order to carry out their duties, and who are directed to comply with the terms of this Agreement (the "Representatives"); provided, however, that each Party shall inform each of those Persons of the confidential nature of the information and of that Party's obligations of confidentiality in respect thereof and the Party shall be

responsible for any breach of these obligations by any recipients of the Confidential Information; and (y) the Parties shall have no obligation with respect to any Confidential Information, as applicable, which (A) at the time of receipt from the other Party was already in the public domain; (B) after receipt from the other Party becomes part of the public domain through no breach of the Party or its Representatives or others acting on behalf of the Party of the Party's obligations hereunder; (C) was in the Party's or its Representatives' possession prior to receipt from the other Party without being subject to an obligation of confidentiality to the other Party; (D) has been disclosed to the Party or its Representatives by a third party, provided that the Party or its Representatives has no actual knowledge that the Party or its Representative had Knowledge that the third party is breaching an obligation of confidentiality to the other Party in providing the information to the Party or its Representatives; or (E) was independently developed by or for the Party or its Representatives by persons who have not had access to Confidential Information disclosed by the other Party.

- (iii) Notwithstanding anything in this Agreement to the contrary, each party hereto agrees that each Party (and any person or entity to which Confidential Information is disclosed by the Party as permitted hereby) may disclose Confidential Information to the extent reasonably necessary to: (i) its regulators; (ii) its auditors; (iii) persons who need to know the tax treatment and tax structure of the transactions contemplated by this Agreement, and all materials of any kind (including opinions or other tax analyses) related to the tax treatment and tax structure; and (iv) the extent otherwise requested by any governmental agency, regulatory authority (including any self-regulatory organization claiming to have jurisdiction) or any bank examiner.
- (iv) If a Party is required by Law or judicial process to disclose the Confidential Information, the receiving Party shall, unless prohibited by Law and to the extent permitted by Law, notify the disclosing Party of the required disclosure of the information, and prior to furnishing the information, the receiving Party shall give the disclosing Party the opportunity to object to the disclosure and/or to seek a protective order or other appropriate remedy to limit that disclosure, and, in the event no protective order or other appropriate remedy is obtained prior to the time disclosure is required, or in the event that the disclosing Party waives compliance with the terms of this Section 5.6, the disclosing Party may disclose only that part of the Confidential Information as it is advised by counsel that is required to be disclosed, and shall use its Commercially Reasonable Efforts to assure that all Confidential Information and other information that is so disclosed will be accorded confidential treatment as close as practicable to that provided hereunder. However, no notice shall be required if the disclosure is or was made to an examiner, or auditor in the course of the examiner's examination or auditor' audit.
- (v) Nothing in this Agreement shall bar the right of either Party to seek and obtain from any court injunctive relief against conduct or threatened conduct which violates this Section 5.6.

(b) **Post-Closing Period.** If the Closing occurs, from and after the Closing Date, (i) Buyer's confidentiality obligations set forth in Section 5.6(a) with respect to solely Seller's Confidential Information constituting Transferred Assets shall cease, and (ii) Seller and Buyer shall hold and protect the Confidential Information as each protects other documents of similar nature in the course of its regular operations.

(c) Neither Party shall issue any external press releases, communications or disclosures concerning the Confidential Information or the Closing, without the other Party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, except those releases, communications or disclosures which are otherwise required by Law. If any Party determines that it is required by applicable Law to make any press release or other public disclosure or announcement, it shall send notice to that effect, accompanied by the text of the proposed disclosure, press release or public announcement, to the other Party as far in advance as practicable, and shall reasonably consider any comments made by the other Party relating to the proposed press release or public announcement.

(d) Notwithstanding anything in this Agreement to the contrary, the Parties' obligation to maintain the confidentiality of the Confidential Information as required hereunder shall continue for a period of [two (2) years] following the earlier of (i) the termination or expiration of this Agreement and (ii) the date of Closing.

(e) [The parties acknowledge that Buyer and Seller are bound by a non-disclosure agreement dated _____, 201_ (the "Confidentiality Agreement"), which shall continue to govern the relationship between Buyer and Seller to the extent not inconsistent with the provisions of this Section 5.6.]

5.7 Failure to Obtain Consent. To the extent that the transfer to Buyer of any Assigned Contract, Transferred Intellectual Property or Transferred License requires the authorization, approval, consent or waiver of, any Governmental Authority or any other Person that has not been obtained by Seller on or prior to Closing, and Buyer has decided not to waive the requirement, set forth hereby, that the Assigned Contract, Transferred Intellectual Property or Transferred License be conveyed at Closing, and the Closing occurs without that authorization, approval, consent or waiver having been obtained, then neither this Agreement nor the transactions contemplated by any Closing Agreement shall constitute a transfer of the Assigned Contract, Transferred Intellectual Property or Transferred License, or an attempt thereof. In the event that Closing occurs without the transfer of the Assigned Contract, Transferred Intellectual Property or Transferred License, then, following Closing, each Party shall use its Commercially Reasonable Efforts, and shall cooperate with the other Party, to obtain promptly those authorizations, approvals, consents or waivers; provided, that neither Seller nor Buyer shall be required to pay any consideration for any authorization, approval, consent or waiver (other than any applicable filing fees or amounts that would have been required of Seller prior to Closing to obtain that approval) or to agree to any conditions or requirements which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on it.

(a) Pending that authorization, approval, consent or waiver, the Parties shall use Commercially Reasonable Efforts to cooperate with each other in any mutually agreeable, reasonable and lawful arrangements (to the extent any arrangements are feasible) designed to

provide to Buyer the benefits of the Assigned Contract, Transferred Intellectual Property or Transferred License that Buyer would have obtained had the Assigned Contract, Transferred Intellectual Property or Transferred License been transferred to Buyer at Closing. To the extent Buyer is provided the benefits pursuant to this Section 5.8 of any Assigned Contract, Transferred Intellectual Property or Transferred License, Buyer shall perform, for the benefit of Seller, the obligations of Seller thereunder and any related liability that, but for the lack of an authorization, approval, consent or waiver in connection with the assignment of the Assigned Contract, Transferred Intellectual Property or Transferred License to Buyer, would have constituted an Assumed Liability, and Seller shall assign to Buyer the right to receive all payments, proceeds and other monies due or payable thereunder and direct any payor to pay the payments, proceeds and other monies directly to Buyer. Once authorization, approval, consent or waiver for the transfer of the Assigned Contract, Transferred Intellectual Property or Transferred License not transferred at Closing is obtained, Seller shall transfer the Assigned Contract, Transferred Intellectual Property or Transferred License to Buyer and, subject to the terms of Sections 2.3 and 2.4, the obligations of Seller associated therewith shall thereupon be deemed Assumed Liabilities.

(b) To the extent any Assigned Contract, Transferred Intellectual Property or Transferred License cannot be transferred following Closing pursuant to this Section 5.8, Buyer and Seller shall use Commercially Reasonable Efforts to cooperate reasonably in an effort to find and enter into mutually agreeable arrangements (including subleasing, (sub)licensing or subcontracting), if feasible, to provide the Parties the economic (taking into account Tax costs and benefits) and operational equivalent, to the extent permitted, of obtaining that authorization, approval, consent or waiver and the performance by Buyer of the obligations and the assumption by Buyer of liabilities thereunder. If Seller receives any payments, proceeds or other monies in respect of the Assigned Contract, Transferred Intellectual Property or Transferred License in connection with the arrangements under this Section 5.8, Seller shall hold the same in trust for Buyer, and pay the same over to Buyer promptly upon receipt thereof without deduction. This Section 5.6 shall in all cases be limited to the extent necessary not to result in a violation of applicable Law.

5.8 Bulk Sales Laws. The Parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Transferred Assets to Buyer, it being understood that any liabilities arising out of the failure of Seller to comply with the requirements and provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction shall be treated as Excluded Liabilities.

5.9 Risk of Loss/Casualty/Takings. During the Interim Operational Period, all risk of loss or damage to the Transferred Assets shall, as between Seller and Buyer, be borne by Seller. If the Transferred Assets are damaged or destroyed by fire, theft, vandalism, or other insurable casualty event (each, an "Event of Loss"), or are taken by a Governmental Authority by exercise of the power of condemnation or eminent domain (each, a "Taking"), then the following provisions of this Section 5.9 shall apply:

(a) If any time before the Closing Date all or any portion of the Transferred Assets are damaged or destroyed by one or more Events of Loss or are subject to a Taking, then Seller shall prepare an estimate (or in the event Buyer objects to Seller's estimate within thirty (30) days of

receipt of the estimate and within the thirty (30) day period Buyer specifies its objection and the basis for the objection in reasonable detail, Seller shall request a qualified independent firm reasonably acceptable to Seller and Buyer to prepare an estimate) within thirty (30) days following the event (i) in the case of an Event of Loss, the cost of restoring the Transferred Assets damaged or destroyed by the event to a condition reasonably comparable to their condition immediately prior to the Event of Loss, or (ii) in the case of Taking, the condemnation value therefor (as applicable, the estimate being a “Casualty Estimate.” Any Casualty Estimate shall be prepared based on the best reasonably available information as of the date of the Casualty Estimate. If a Casualty Estimate with respect to an Event of Loss or a Taking occurs, then at Buyer’s option, elect: (i) with respect to an Event of Loss, Seller will restore the Transferred Assets damaged or destroyed by the Event of Loss to a condition reasonably comparable to their condition immediately prior to the Event of Loss, (ii) with respect to either an Event of Loss or a Taking, the Initial Purchase Price shall be reduced by an amount equal to the actual costs incurred by Buyer with respect to the Event of Loss to restore property to its appropriate condition, or (iii) Buyer may terminate this Agreement. Seller shall have the right in connection with an election by Buyer under either subparagraph (i) or (ii) to either accept Buyer’s election in this regard or to terminate this Agreement. Absent agreement to the contrary, the Parties shall adjust the Initial Purchase Price by the Casualty Estimate, but shall thereafter pay or reimburse the other Party, as appropriate for any and all actual costs incurred by that Party with respect to that Event of Loss or Taking, as noted above.

(b) [Notwithstanding anything in this Agreement to the contrary, this Section 5.10 and rights of a party to seek specific performance of this Agreement shall be the sole and exclusive remedies of Seller and Buyer with respect to any Event of Loss or Taking that damages, impairs or destroys during the Interim Operational Period any of the Transferred Assets, except the other party shall not be so restricted to the extent the Event of Loss was caused by a party’s willful misconduct, recklessness or gross negligence.]

ARTICLE 6 ADDITIONAL COVENANTS OF SELLER AND BUYER

Seller and Buyer, as applicable, hereby additionally covenants, promises and agrees as follows:

6.1 Access and Information.

(a) Access to Information. Throughout the Interim Operational Period, Seller shall upon reasonable notice from Buyer: (1) provide Buyer and its Representatives reasonable access to the books and records and other documents and data related to the Transferred Assets, Assumed Liabilities and the Power Station; (2) furnish Buyer and its Representatives with financial, operating and other data and information related to the Transferred Assets as Buyer or any of its Representatives may reasonably request; (3) reasonably cooperate with Buyer in its investigation of the Transferred Assets; (4) provide Buyer with copies of any proposed amendment to any Assigned Contract and any proposed new Contract relating to the Transferred Assets of which Seller is aware, regardless of whether prior written consent of Buyer relating thereto is required by Section 6.2; (5) provide Buyer with copies of any correspondence or notice asserting or threatening the assertion of a default under or termination of any Assigned Contract relating to the Transferred Assets; and (6) to the extent practicable under the circumstances,

notify Buyer in advance of the commencement of any maintenance or capital project on the Transferred Assets that is expected to involve the expenditure of at least [\$25,000] and use Commercially Reasonable Efforts to provide Buyer with the opportunity to observe all or any portion or portions of the work being performed. No investigation by Buyer or information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller in this Agreement.

(b) [Buyer's right to conduct those activities shall be subject to the following:

- (i) All activities of Buyer or its representatives undertaken in connection with its access rights shall comply with applicable Law in all material respects, including Laws relating to worker safety;
- (ii) Seller shall be permitted to have one or more of its representatives present (at Seller's expense) during the exercise of any access rights by Buyer;
- (iii) Buyer shall, at its own cost, repair any damage to any portion of the Power Station or any Transferred Assets or any other property of Seller caused by the access rights of Buyer or its representatives;
- (iv) Buyer shall be responsible for, and shall indemnify Seller and its Affiliates and Representatives against, any property damage or personal injury incurred by Seller or any other Person to the extent caused by Buyer's activities under this Section 6.1; and
- (v) All activities of Buyer shall be conducted in a manner so as not to disturb or unreasonably interfere with the normal operations of the Transferred Assets, the Power Station or Seller's and its Affiliates' conduct of their respective businesses.]

6.2 Operations During Interim Operational Period.

(a) Except as authorized by Buyer in writing, from the Effective Date until Closing or termination of this Agreement, Seller shall maintain, or cause to be maintained, the Transferred Assets in the ordinary course of business consistent with past practices and in accordance with Prudent Operating Practices and in compliance with applicable Law; provided, that, this obligation shall not be deemed to require Seller to make any capital or maintenance expenditures other than those set forth in Schedule 1.1(a) and Schedule 1.1(d). Without limiting the foregoing, prior to Closing or termination of this Agreement, and except as otherwise expressly permitted under the terms of this Agreement, Seller shall not, without the prior written consent of Buyer, not to be unreasonably withheld, delayed or conditioned:

- (i) Amend, modify, terminate, or renew any existing Assigned Contract or (ii) enter into any new Contract relating to the Transferred Assets, resulting in an Assumed Liability and obligating Seller to pay or entitling Seller to receive more than [Ten Thousand Dollars (\$10,000)] under any individual Contract, or in the aggregate an amount in excess of [Twenty-Five Thousand Dollars (\$25,000)];

- (ii) Sell, lease, transfer or dispose of or acquire, or make any Contract for the sale, lease, transfer or disposition or acquisition of, any assets or properties included in the Transferred Assets, other than Transferred Assets used, consumed or sold in the ordinary course of business consistent with past practice (including through the ordinary use or consumption of Inventory and Major Maintenance Spare Parts), so long as, other than with respect to Transferred Assets that are consumables, to the extent consistent with past practice the same are replaced with items of value, utility and useful life that are substantially similar to or better than that of the item removed as of the Effective Date;
- (iii) Incur, assume, or guaranty any obligation or liability for Indebtedness pertaining to the Transferred Assets resulting in Assumed Liabilities except in the ordinary course of business consistent with past practice, but in no instance resulting in any Assumed Liability or any Encumbrance for Indebtedness other than a Permitted Encumbrance or that will be paid off or discharged at Closing;
- (iv) Fail to use Commercially Reasonable Efforts to renew any Transferred License;
- (v) Settle any Proceeding relating to the Transferred Assets except for those matters set forth on Schedule 2.2(g)(vii), all of which shall be at no cost or other expense to Buyer and so long as that settlement will not impose any obligation on Buyer after the Closing or otherwise restrict its ownership or use of any of the Transferred Assets;
- (vi) Delay the payment and discharge of any portion of any obligation or liability that will be an Assumed Liability at Closing beyond its currently scheduled payment or performance date;
- (vii) Subject any Transferred Asset to any new Encumbrance, except for Permitted Encumbrances or those that will be discharged by the Closing or for those contemplated by the Transactions;
- (viii) Make any material alteration to the Transferred Assets, unless the alteration is required by Law or is necessary for proper repair and replacement of the Transferred Assets or as otherwise approved in advance in writing by Buyer;
- (ix) Relocate any Transferred Asset to any other location, except in the ordinary course of operation and maintenance (including repairs) of the Transferred Assets or substitute assets of lesser quality or greater age for Transferred Assets without Buyer's written consent after disclosure of that proposed exchange;
- (x) Except for the Transactions, enter into any agreement regarding the sale or lease of all or any portion of the Transferred Assets other than in the ordinary course of business, or enter into any agreement regarding the development of any portion of the Site that, in each case, that would affect the ownership or operation of the Transferred Assets; or

- (xi) Agree or commit to take any action prohibited by the foregoing clauses (i) through (x).

6.3 Insurance. From the Effective Date until Closing or termination of this Agreement, Seller shall maintain all of its insurance coverages in respect of the Transferred Assets, to the extent available on commercially reasonable terms. Until Closing or termination of this Agreement, Seller will not take any action that will materially decrease the limits of the Seller Insurance Policies with respect to the Transferred Assets.

6.4 Notice of Certain Events.

(a) During the Interim Operational Period after obtaining Knowledge of any event below, Seller shall promptly notify Buyer in writing of:

- (i) the occurrence of any of items set forth in Section 6.2;
- (ii) any fact, circumstance, event or action the existence, occurrence or taking of which (A) has had, or would reasonably be expected to have, individually or in the aggregate, an adverse material, without regard to the giving of notice or any opportunity to cure, (B) has resulted in any representation or warranty made by Seller in Article 3 not being true and correct in any material respect or (C) has resulted in the failure of any of the conditions set forth in Section 8.2, Section 8.3, Section 8.5 or Section 8.7 to be satisfied;
- (iii) any material written notice or other material written communication from any Person received by it alleging that the consent of the Person is or may be required in connection with the Transactions;
- (iv) any material written notice or other material written communication from any Governmental Authority received by it in connection with the Transactions, the Transferred Assets or the Assumed Liabilities;
- (v) any Proceedings commenced or, to Seller's Actual Knowledge, threatened against, relating to or involving or otherwise adversely affecting the Transactions, the Transferred Assets or the Assumed Liabilities that, if pending on the Effective Date, would have been required to have been disclosed pursuant to Section 3.10 or that relate to the consummation of the Transactions; and
- (vi) any communication from any other Person seeking to enter into an Acquisition Proposal or to otherwise acquire, possess or lease a material amount of the Transferred Assets other than in the ordinary course of business.

(b) Subject to Section 6.6, Buyer's receipt of information pursuant to this Section 6.4 shall not operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller in this Agreement and shall not be deemed to amend or supplement any schedule to this Agreement, except as otherwise provided in this Agreement.

6.5 Non-Solicitation.

(a) Prior to the Closing, Seller shall not, and shall not authorize or permit any of its Affiliates or any of its or their Representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller shall immediately cease and cause to be terminated, and shall cause its Affiliates and all of its and their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal.

(b) Seller agrees that the rights and remedies for noncompliance with this Section 6.5 shall include having the provision specifically enforced, without the posting of any bond or surety therefore, by any court having equity jurisdiction, it being acknowledged and agreed that any breach or threatened breach shall cause irreparable injury to Buyer and that money damages would not provide an adequate remedy to Buyer.

6.6 Schedule Update. Prior to the Closing, Seller shall promptly supplement or amend the Schedules to this Agreement to the extent that Seller becomes aware of any matter heretofore existing or hereafter arising which, if existing, occurring or known at the date of this Agreement, would have been required to be set forth or described by that Party in the Schedules or that is otherwise necessary to correct any information in the Schedules that has been rendered materially inaccurate thereby. For purposes of determining the accuracy of the representations and warranties of Seller contained in this Agreement and for purposes of determining satisfaction of the conditions set forth in Section 8.2, any subsequent supplements or amendments thereto (collectively, the “Schedule Updates”) shall not cure any breach of that representation or warranty unless Buyer expressly waives that breach. If any occurrence, event or change contained in the Schedule Update, individually or in the aggregate, materially and adversely affects the Transferred Assets which cannot be cured by Closing, Buyer shall have the right to terminate this Agreement. In addition, Buyer may consummate the Transactions and preserve its rights with respect to that breach of representation or warranty thereafter, unless Buyer expressly states to the contrary in a written instrument.

ARTICLE 7 ADDITIONAL COVENANTS OF BUYER

7.1 Right of First Offer. Except as provided below, if Buyer hereafter seeks to sell or dispose of all or substantially all of the Transferred Assets or any entity in which those assets comprise all or substantially all of its assets, whether by way of a sale of securities, merger, consolidation or similar proceeding, to any unAffiliated third party (a “Triggering Event”), Buyer hereby grants to Seller a right of first offer to acquire those assets. If Buyer seeks to enter into a Triggering Event, it shall provide written notice of the proposed Triggering Event prior to the date Buyer seeks to enter into the Triggering Event, or to commence offering that opportunity to another Person. Seller shall have twenty (20) days after the date of Buyer’s notice to notify Buyer in writing with the proposed terms of its offer to acquire the assets or equity subject to that transaction. If Seller submits an offer for any of the assets or equity, it must submit an offer to acquire all of those assets or equity and the related liabilities, unless the Parties otherwise agree. If Seller submits an offer for those assets or equities, the parties shall have thirty (30) days to

negotiate the principal business terms of that transaction. If they agree on those terms, then they shall continue to prepare definitive documents to effect that transfer on mutually acceptable terms during the next thirty (30) days (but no later than ninety (90) days following the date of Seller's initial proposed offer to purchase those assets or equity. If at the end of that time, the parties are unable to consummate that transaction, then Buyer shall be free to sell those assets or equities to any other potential purchaser for a price not materially less than the price at which Seller offered, in Buyer's reasonable determination. This right of first offer shall not apply to: (a) ordinary course retirements, replacements or additions to the Transferred Assets, (b) any transaction not involving all or substantially all of the Transferred Assets or their replacements, or (c) any sale, merger or reorganization of Buyer or involving all or substantially all of its assets or securities.

7.2 Conduct Pending Closing. Prior to Closing or termination of this Agreement, unless Seller shall otherwise consent in writing, Buyer shall not take any action which would cause any of Buyer's representations and warranties set forth in Article 4 to be materially inaccurate as of Closing.

7.3 Notice Certain Events. During the Interim Operational Period, after obtaining Knowledge of any event below, Buyer shall promptly notify Seller in writing of (but only to the extent affecting the Transferred Assets, Assumed Liabilities or ability of the Parties to consummate the Transactions):

(a) any fact, circumstance, event or action the existence, occurrence or taking of which (A) has had, or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Buyer's ability to consummate the Transactions, without regard to the giving of notice or any opportunity to cure, (B) has resulted in any representation or warranty made by Buyer in Article 4 not being true and correct or (C) has resulted in the failure of any of the conditions set forth in Section 8.2, Section 8.3, Section 8.5 or Section 8.7 to be satisfied;

(b) any material written notice or other written material communication from any Person received by it alleging that the consent of the Person is or may be required in connection with the transactions contemplated by this Agreement; and

(c) any material written notice or other material written communication from any Governmental Authority received by it in connection with the Transactions, the Transferred Assets or the Assumed Liabilities.

ARTICLE 8 CONDITIONS TO CLOSING

The obligations of Buyer and Seller to consummate the Transactions at Closing shall be subject to fulfillment at or prior to Closing of the following conditions, unless Buyer or Seller, as applicable, waives the condition in writing:

8.1 Termination of Agreement. This Agreement shall not have been duly terminated.

8.2 Representations and Warranties. As a condition to a Party's obligation to consummate the Transactions, the representations and warranties of the other Party set forth in this Agreement shall be true and correct as of the Closing Date as though made on the Closing Date.

8.3 Performance by Buyer and Seller. Buyer and Seller shall have each performed and complied in all material respects with all of its respective agreements, obligations and covenants (including but not limited to those set forth in Articles 5, 6 and 7) hereunder during the Interim Operational Period.

8.4 Licenses, Approvals, Buyer's Required Regulatory Approvals. All of the following shall have been obtained (except as expressly indicated otherwise on the relevant Schedules): Seller Approvals set forth on Schedule 3.4(a), Seller's Licenses set forth on Schedule 3.4(b), Buyer's Approvals set forth on Schedule 4.4(a), and Buyer's Required Regulatory Approvals set forth on Schedule 4.4(b). All Transferred Licenses that lawfully may be transferred on or prior to Closing and not constituting, or in respect of, Excluded Assets shall have been transferred to Buyer at Closing.

8.5 No Restraint. There shall be no:

(a) Injunction, restraining order or order of any nature issued by any court of competent jurisdiction or Governmental Authority of competent jurisdiction which directs that the Transactions shall not be consummated as herein provided and no Proceeding has been commenced by a Governmental Authority seeking to do any of the foregoing; or

(b) Law enacted which would render the consummation of the Transactions illegal or Law enacted that would prohibit or materially increase the cost of the owning or operating the Transferred Assets.

8.6 Closing Agreements. Buyer and Seller and any of their respective Affiliates which are parties to any Closing Agreements shall have executed and delivered the respective Closing Agreements to be executed by that Party or others, as appropriate.

8.7 Material Adverse Effect. No change, event, circumstance, condition, or effect shall have occurred from and after the Effective Date and is continuing that, individually or in the aggregate with any other changes, events, circumstances, conditions or effects, is or would reasonably be expected to be adversely material on the ability of the Buyer to own or operate the Transferred Assets.

8.8 Closing Certificates. Each Party shall have received from the other Party an officer's certificate (each a "Closing Certificate") in mutually acceptable form dated as of the Closing Date and executed on the Party's behalf by a duly authorized executive officer of the Party, in each case in his or her capacity as such, stating that the conditions with respect to the Party provided in Sections 8.2 and 8.3 have been satisfied.

8.9 Ongoing Repairs, Maintenance and Improvements. Seller shall have completed all repairs, maintenance and improvements for the Transferred Assets scheduled to have been completed through the Closing Date, based on the Seller's 2018 operating plan.

8.10 System Modifications. [Will there be a need for any modifications or changes to the system that should be put in place prior to the closing, like additional meters, security and access features, communications systems, etc.?)]

8.11 FERC Approvals. The Parties shall have received FERC acceptance of all agreements related to transfer of the Transmission Rights that are required to be filed with FERC and FERC acceptance of all agreements related to the assignment and amendment of the Interconnection and Operating Agreement that are required to be filed with FERC.

ARTICLE 9 CLOSING

9.1 Closing. The Closing provided for in this Agreement will take place on the Closing Date at the corporate offices of Jennings, Strouss & Salmon, PLC, One E. Washington St., Suite 1900, Phoenix, Arizona 85004-2554 at 10:00 a.m. (local time) on the tenth (10th) Business Day following the date on which the last of the conditions set forth in Article 8 have been satisfied or waived by the Party entitled to waive the same (other than conditions which by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions), or another date and place as Buyer and Seller may mutually agree in writing. At Closing, subject to the terms and conditions hereof, Buyer and Seller shall deliver or cause to be delivered to each other all the documents, instruments and other agreements required pursuant to Articles 8 and 9 to be executed and delivered for Closing, in each case duly executed by an authorized signatory of Buyer and Seller or other applicable Person and, if applicable, acknowledged and in due form for recording (collectively the "Closing Agreements").

9.2 Closing Agreements. Subject to the terms and conditions hereof, at the Closing, Buyer and Seller, as applicable, shall deliver, or cause to be delivered, the following to the other Party (and third parties, as applicable), in mutually acceptable form, that approval not to be unreasonably withheld:

- (a) An amount in immediately available funds, by way of wire transfer from Buyer to an account or accounts designated at the order of Seller, equal to the Estimated Purchase Price.
- (b) a Bill of Sale and Assignment executed by Seller transferring all of the Transferred Personal Property;
- (c) an Assignment and Assumption of Rights Agreement executed by Buyer;
- (d) the Lease Agreement
- (e) the Easement;
- (f) the instrument(s) executed by PJM, Seller, Buyer assigning the interests of Seller in the [Interconnection and Operating Agreement] to Buyer, and amending that agreement as necessary to reflect the assignment, in each case as reasonably agreed by Seller and Buyer;

- (g) the instrument executed by Seller and Buyer assigning the Transmission Rights to Buyer, as reasonably agreed by Seller and Buyer;
- (h) Certified copies of the resolutions of the Party's governing board or bodies, as needed, authorizing the execution, delivery and performance of this Agreement and the Transactions.
- (i) A certificate of the Secretary or Associate Secretary of the Party identifying the name and title and bearing the signatures of the officers of that Party, authorized to execute and deliver this Agreement, each Closing Agreement to which it is a party and the other agreements contemplated hereby.
- (j) Evidence, in form and substance reasonably satisfactory to Seller, of the receipt by the applicable party of its Required Regulatory Approvals.
- (k) To the extent available, originals of all of the Assigned Contracts constituting Transferred Assets, and, if the originals are not available, true and correct copies thereof, and required assignments to transfer the Assigned Contracts, duly executed by Seller and the counterparty (subject to Section 5.9);
- (l) Documents, if any, necessary to transfer any of the Transferred Assets not covered by the foregoing or as reasonably requested by Buyer;
- (m) Certificates of non-foreign status in the form required by Section 1445 of the Code duly executed by Seller;
- (n) All the other agreements, documents, instruments and writings required to be delivered by the other Party at or prior to the Closing Date pursuant to this Agreement or reasonably requested by the other Party in connection with the Transactions.

ARTICLE 10 TERMINATION

10.1 Termination. This Agreement may be terminated prior to Closing only:

- (a) At any time, by mutual written consent of Seller and Buyer;
- (b) By either Party upon written notice to the other Party if any Governmental Authority having competent jurisdiction has issued a final, non-appealable order, decree, ruling or injunction (other than a temporary restraining order) or taken any other action permanently restraining, enjoining or otherwise prohibiting the Transactions;
- (c) By either Party upon written notice to the other Party on or after [date] (the "Initial Termination Date"); provided, that, in the event that (a) Seller has timely filed for FERC approvals as set forth in this Agreement and (b) the FERC approval is not obtained prior to the Initial Termination Date, the Initial Termination Date may be extended by Seller upon written notice to Buyer prior to the Initial Termination Date by an additional ninety (90) days (as extended, the "Termination Date"); provided, further that a Party cannot terminate under this

provision if the failure of the Closing to occur is the result of the failure on the part of the Party to perform any of its obligations hereunder;

(d) By Buyer or Seller, as applicable, pursuant to other provisions of this Agreement.

(e) By a Party if there has been a misrepresentation with respect to the other Party's representations and warranties in this Agreement, or a default or breach by that other Party with respect to its covenants or agreements contained in this Agreement, any of which individually or in the aggregate would result in the material failure to satisfy one or more of the conditions to the Closing set forth in Section 8.2 or Section 8.3, as applicable, but not including any of those covenants that are not fulfilled due to the actions or inactions of the Party seeking termination, and the misrepresentation, default or breach is not cured within sixty (60) days (a "Cure Period");

(f) By either Party upon written notice to the other, if all conditions set forth in Article 8, other than those that are within the control of the other Party, have been satisfied (other than conditions which by their nature are to be satisfied at the Closing) and that party refuses to close the transaction within thirty (30) days of written notice by the Party seeking to terminate that it is ready, willing and able to close and that the conditions noted in this subsection have been satisfied.

10.2 Effect of Termination. If this Agreement is validly terminated pursuant to Section 10.1, the Parties shall have no further obligations or liabilities hereunder, except as expressly provided in this Agreement, including Section 5.7; provided that nothing in this Section 10.2 shall relieve any Party from liability for any fraudulent, reckless or willful breach of this Agreement by the Party prior to termination of this Agreement.

ARTICLE 11 SURVIVAL AND INDEMNIFICATION

11.1 Survival.

(a) Except for the representations and warranties set forth in Sections 3.1 (Formation and Power), 3.2 (Binding Obligations of Seller), 3.6 (Compliance with Law); 3.7 (Environmental), 3.8(b) and (c) (Title), 3.12 (Taxes), 3.15 (Brokers), 4.1 (Organization and Power), 4.2 (Binding Obligations of Buyer) and 4.6 (Brokers) or in the event of fraud, recklessness or willful misconduct by that Party or its Representatives (collectively, the "Fundamental Representations"), the representations and warranties of Buyer and Seller set forth in this Agreement, in any Closing Agreement and in any certificate delivered pursuant hereto shall survive Closing until the date that is [twenty-four (24) months] following the Closing Date. The Fundamental Representations and Warranties of a Party shall survive indefinitely. Each of those dates, as applicable, the "Expiration Date"). After the applicable Expiration Date with respect to a particular representation and warranty, no Person may make or bring a claim or Proceeding for liability hereunder with respect thereto.

(b) The covenants and obligations of the Parties set forth in this Agreement or in any Closing Agreement that are to be performed (i) on or prior to the Closing shall survive until the Closing,

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after which time no Person may make or bring a claim or Proceeding for liability hereunder and (ii) after the Closing shall survive until the date on which they have been fully performed, after which time no Person may make or bring a claim or Proceeding for liability hereunder; provided, that, any indemnity obligations of Seller with respect to the Excluded Liabilities shall survive without limit.

(c) In the event written notice of any claim for indemnification under Section 11.2(a) or (b) or Section 11.3(a) or (b) shall have been given in accordance herewith on or before the expiration date of the applicable survival period specified in paragraph (a) or (b) above setting forth the claim in reasonable detail (including the legal and factual basis for the claim and the Losses (defined below) incurred), the representations, warranties, covenants and agreements that are the subject of the indemnification claim shall survive with respect to that claim until sixty (60) days after the date as the claim is fully and finally resolved and the respective Indemnified Party (as defined below) has been notified in writing of that resolution.

11.2 Indemnity by Seller. From and after Closing, and subject to the terms and conditions set forth in Section 11.4 and Section 11.5 and the limitations set forth in Section 11.1 and this Section 11.2, Seller shall indemnify, defend and hold Buyer and its respective Affiliates and their respective officers, directors, representatives, owners, and advisors (each, a “Buyer Indemnified Party”) harmless for, from and against any and all claims, including Third Party Claims, demands, suits, loss, liability, damage, fines, penalties, interest, and expense, including reasonable and documented attorneys’ fees and costs of investigation, litigation, settlement and judgment, as well as the Indemnitee’s obligations to indemnify its directors, officers, attorneys, employees, subcontractors, agents and assigns (collectively “Losses”), which any of them may sustain or suffer arising out of, in connection with, relating to or resulting from:

- (a) the breach of any representation or the breach of any warranty made by Seller in this Agreement or any other Closing Agreement or Seller’s Closing Certificate;
- (b) the breach of any covenant or agreement made or undertaken by Seller in this Agreement or any other Closing Agreement; or
- (c) the Excluded Assets or the Excluded Liabilities.

Notwithstanding anything to the contrary in this Agreement, Seller shall not be liable for any Losses with respect to the matters set forth in Section 11.2(a), excluding Losses arising from or relating to the breach by Seller of any Fundamental Representation in Article 3 or arising pursuant to fraud or willful misconduct of Seller, unless and until the aggregate of all Losses under Section 11.2(a) exceeds, on a cumulative basis, [Twenty-five Thousand Dollars (\$25,000)] (the “Indemnity Basket”), in which event Seller shall be liable for Losses including the amounts included in the Indemnity Basket. Notwithstanding anything to the contrary in this Agreement, the aggregate liability of Seller (i) arising under or relating to Section 11.2(a) (excluding any liability arising from a breach of the Fundamental Representations or arising pursuant to fraud, recklessness or willful misconduct of Seller), whether based in contract, tort, strict liability, other Laws or otherwise, shall not exceed, on any measurement date, _____ Dollars (\$____,000) of the (the “Indemnity Cap”); and (ii) arising under or relating to Sections 11.2(b) or (c) or arising from a breach of the Fundamental Representations, fraud, recklessness or willful

misconduct, whether based in contract, tort, strict liability, other Laws or otherwise, shall not exceed the Purchase Price.

11.3 Indemnity by Buyer. From and after Closing, and subject to the terms and conditions set forth in Section 11.4 and Section 11.5 and the limitations set forth in Section 11.1 and this Section 11.3, Buyer shall indemnify, defend and hold harmless Seller and its Affiliates and their respective officers, directors, representatives, owners, and advisors (each, a “Seller Indemnified Party”) for, from and against any and all Losses which any of them may sustain or suffer arising out, in connection with, relating to or resulting from:

- (a) the breach of any representation or the breach of any warranty made by Buyer in this Agreement or any other Closing Agreement or Buyer’s Closing Certificate;
- (b) the breach of any covenant or agreement made or undertaken by Buyer in this Agreement or any other Closing Agreement; or
- (c) the Assumed Liabilities.

Notwithstanding anything to the contrary in this Agreement, Buyer shall not be liable for any Losses with respect to the matters set forth in Section 11.3(a), excluding Losses arising from or relating to the breach by Buyer of any Fundamental Representation in Article 4 unless and until the aggregate of all Losses under Section 11.3(a) exceeds, on a cumulative basis, the Indemnity Basket, in which event Buyer shall be liable for Losses including the amounts included in the Indemnity Basket.

Notwithstanding anything to the contrary in this Agreement, the aggregate liability of Buyer collectively (i) arising under or relating to Section 11.3(a) (excluding any liability arising from or relating to a breach of Buyer’s Fundamental Representations or pursuant to fraud, recklessness or willful misconduct), whether based in contract, tort, strict liability, other Laws or otherwise, shall not exceed, on any measurement date, the Indemnity Cap; and (ii) arising under or relating to Section 11.3(b) or (c) and any liability arising from a breach of the Fundamental Representations or pursuant to fraud, recklessness or willful misconduct, whether based in contract, tort, strict liability, other Laws or otherwise, shall not exceed the Purchase Price.

11.4 Further Qualifications Respecting Indemnification. The right of any Buyer Indemnified Party or Seller Indemnified Party (each, an “Indemnitee”) to be indemnified hereunder shall, except with respect to any claim based upon intentional fraud, be subject to the following qualifications:

- (a) Upon discovery of facts or circumstances giving rise to a claim for indemnification, including receipt of notice of any claim or Proceeding from any third party against a Party and from which Losses may reasonably be recoverable by the Party pursuant to Section 11.2 (in the case of a claim or Proceeding against Buyer) or Section 11.3 (in the case of a claim or Proceeding against Seller) (the third-party actions being collectively referred to herein as “Third Party Claims”), the Indemnitee shall give written notice thereof (each, a “Claim Notice”) to the indemnifying Party (the “Indemnitor”) as promptly as practicable but, in any event, within thirty (30) days after the date the Indemnitee obtains actual knowledge of the basis or alleged basis for the right of indemnity. The failure of the Indemnitee to provide a Claim Notice within any time

period shall not relieve the Indemnitor of liability hereunder except and only to the extent the defense of the Third Party Claim is materially prejudiced by the failure to give the Claim Notice;

(b) In computing Losses for which an Indemnitee seeks indemnification pursuant to Section 11.2(a) or Section 11.3(a) (but not for purposes of determining inaccuracy or breach), references to materiality qualifications shall be disregarded and the representations and warranties that are the subject thereof shall be interpreted as if those disregarded words were not included;

(c) In computing Losses, the amounts shall be computed net of any related recoveries that the Indemnitee actually receives under insurance policies, or other related payments entitled to from third parties, and net of any Tax benefits actually received to the Indemnitee, if any;

(d) The Indemnitee shall use Commercially Reasonable Efforts, acting in accordance with Prudent Operating Practices, to mitigate all Losses for which indemnification may be available hereunder, including availing itself of any defenses, limitations, rights of contribution, claims against third Persons and other rights at law or equity.

11.5 Procedures Respecting Third Party Claims.

(a) The Indemnitee shall provide with each Claim Notice a copy of a Third Party Claim and any related documents received (if applicable) and shall otherwise make available to the Indemnitor all relevant information to the defense of the claim and within the Indemnitee's possession. The failure of an Indemnitee to so notify the Indemnitor shall not relieve the Indemnitor of liability hereunder except to the extent that the defense of the Third Party Claim is prejudiced by the failure to give that notice. The notice shall advise whether the Indemnified Party seeks to assume the defense of the matter. If it does not, then the Indemnifying Party shall defend that matter, except as provided below.

(b) The Indemnitor shall assume the defense of the legal proceeding, then the Indemnitee shall (upon notice to the Indemnitor) have the right to undertake the defense or compromise of the Third Party Claim; provided, that (i) the Indemnitor cannot settle any Third Party Claim without the prior written consent of the Indemnitee, not to be unreasonably withheld, conditioned or delayed, and (ii) the Indemnitor shall reimburse the Indemnitee for the costs of defending against the Third Party Claim (including reasonable attorneys' fees and expenses) unless it is determined in a final binding decision that the Indemnitor is not liable under this Agreement.

(c) The Party not defending the matter may elect to participate in the legal proceedings, negotiations or defense at any time at its own expense. The Indemnitor shall employ counsel and shall pay all expenses in connection with the conduct of the defense. The Indemnitor shall diligently work to defend any Third Party Claim that it has agreed to defend and shall consult with the Indemnitee regarding the defense and shall not enter into any settlement without the prior written consent of the Indemnitee, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) The Indemnitor shall not be entitled to control (but shall be entitled to participate at its own expense in the defense of), and the Indemnitee shall be entitled to have sole control over the defense or settlement, compromise, admission, or acknowledgment of any Third Party Claim (i) if the Indemnitor shall have failed to assume the defense of the Third Party Claim or it does not

have the financial capability to defend the claim, (ii) to the extent the Third Party Claim seeks an injunction or other equitable relief against the Indemnitee which, if successful, would materially adversely affect the business, operations, assets, or financial condition of the Transferred Assets or Indemnitee, or (iii) if the Third Party Claim seeks damages in excess of the Indemnity Cap; provided, that, in each case of subparagraphs (i) through (iii) the Indemnitee shall make no settlement, compromise, admission or acknowledgment that would give rise to liability on the part of the Indemnitor without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld, conditioned or delayed. If the Indemnitor defends the Third Party Claim and related Proceedings, the Indemnitor shall pay the reasonable costs, fees and expenses of the Indemnitee's separate counsel (i) if the Indemnitee shall have reasonably concluded, through advice and analysis of its counsel, that there may be defenses available to the Indemnitee that are different from or additional to those available to the Indemnitor which would make joint representation inappropriate, and (ii) if the Indemnitee's counsel shall have advised the Indemnitee that there is a conflict of interest that could make it inappropriate under applicable standards of professional conduct to have common counsel.

11.6 Purchase Price Adjustment. The Parties agree to treat all payments made pursuant to this Article 11 as adjustments to the Purchase Price for Tax purposes, unless otherwise required by applicable Law or taxing authority interpretations thereof.

11.7 [Exclusive Remedies. Except as expressly provided in this Agreement, or with respect to claims for fraud, willful misconduct or criminal conduct, the Parties hereto agree that the remedies provided in this Agreement are the exclusive remedies of the Parties, and no Party shall make any claim, for any loss or other matter under, relating to or arising out of this Agreement whether based on tort, strict liability, or any other legal theory. Each party may seek specific performance hereunder.]

ARTICLE 12 GENERAL PROVISIONS

12.1 Notices. All notices, requests, demands, waivers, consents and other communications hereunder shall be in writing, shall be delivered either in person, by overnight air courier or by mail, and shall be deemed to have been duly given and to have become effective (a) upon receipt, if delivered in person, (b) one (1) Business Day after having been delivered to an air courier for overnight delivery, (c) upon transmission by e-mail or facsimile if sent before 5:00 p.m. local time of the recipient on a Business Day, or on the next Business Day if sent thereafter, or (d) five (5) Business Days after having been deposited in the U.S. mail as certified or registered mail, return receipt requested, all fees prepaid, directed to the Parties or their permitted assignees at the following addresses (or at another address as shall be given in writing by a Party):

If to Seller, addressed to:

Attn:

Phone:

Fax:

E-Mail:

with a copy to counsel for Buyer (which shall not constitute notice):

Attn:
Phone:
E-Mail:

If to Buyer, addressed to:

Attn:
Phone:
Fax:
E-Mail:

with a copy to counsel for Buyer (which shall not constitute notice):

Jennings, Strouss & Salmon, PLC
1350 I Street, NW, Suite 810
Washington, DC 20005-3305
Attn: Gary Newell
Phone: (202) 371-4129
Fax: (202) ____ - ____
E-Mail: gnewell@jsslaw.com

12.2 Successors and Assigns. The rights of the Parties under this Agreement shall not be assigned or transferred nor shall the duties of either Party be delegated without the prior written consent of the other Party in its sole discretion; provided, that Buyer may, without Seller's consent, assign some or all of its rights, interests or obligations hereunder, in whole or in part to an Affiliate. This Agreement will apply to, be binding in all respects upon, and inure to the benefit of the Parties hereto and their respective successors and permitted assignees. Nothing contained in this Agreement, express or implied, is intended to confer upon any Person (other than the Parties hereto and their permitted assignees) any benefits, rights or remedies under or by reason of this Agreement.

12.3 Counterparts. This Agreement may be executed in two or more original counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Counterparts may be delivered by facsimile or other electronic methods and shall be effective upon that delivery as if a signed original had been delivered at that time to the other party.

12.4 Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

12.5 Entirety of Agreement; Amendments. This Agreement (including the Schedules, Appendices and Exhibits hereto), the Confidentiality Agreement and the Closing Agreements contain the entire understanding between the Parties concerning the Transactions and, except as expressly provided for herein, supersede all prior understandings and agreements, whether oral

or written, between them with respect to the subject matter hereof and thereof. There are no representations, warranties, agreements, arrangements or understandings, oral or written, between the Parties relating to the subject matter of this Agreement, the Confidentiality Agreement and the Closing Agreements which are not fully expressed herein or therein. This Agreement may be amended or modified only by an agreement in writing signed by each of the Parties. All Appendices, Exhibits and Schedules attached to or delivered in connection with this Agreement are integral parts of this Agreement as if fully set forth herein.

12.6 Construction. Waiver. The failure of a Party to insist, in any one or more instances, on performance of any of the terms, covenants and conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of that term, covenant or condition, but the obligations of the Parties with respect thereto shall continue in full force and effect. No waiver of any provision or condition of this Agreement by a Party shall be valid unless in writing signed by the Party. A waiver by one Party of the performance of any covenant, condition, representation or warranty of the other Party shall not invalidate this Agreement, nor shall any waiver be construed as a waiver of any other covenant, condition, representation or warranty. A waiver by any Party of the time for performing any act shall not constitute a waiver of the time for performing any other act or the time for performing an identical act required to be performed at a later time.

12.7 Waiver of Jury Trial. EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS WHICH IT MAY HAVE TO A JURY TRIAL WITH RESPECT TO ANY SUIT, LEGAL ACTION OR PROCEEDING BROUGHT BY OR AGAINST IT OR ANY OF ITS AFFILIATES RELATING TO THIS AGREEMENT OR THE TRANSACTIONS.

12.9 Waiver of Sovereign Immunity. With respect to this Agreement, any other Closing or Transaction Agreement and the contemplated Transactions, including with respect to the continued ownership, operation, maintenance, improvement and replacements of the Transferred Assets for so long as Buyer or its successors or assigns have an interest in any of the Transferred Assets, Seller hereby irrevocably waives, to the fullest extent permitted by law, with respect to itself and its revenues and assets (irrespective of their actual or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction or any court or tribunal, including mediation, arbitration or similar forum (each, a "Forum"), (iii) relief by way of injunction, specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment or an award), and (v) execution or enforcement of any judgment or award to which it or its revenues or assets might otherwise be subject in any Proceedings before any Forum in any jurisdiction. Seller irrevocably agrees, to the extent permitted by Law, that it will not claim that immunity in any of those Proceedings.

12.8 Governing Law/Dispute Resolution.

(a) This Agreement shall be governed in all respects, including validity, interpretation and effect, by the internal Laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Ohio, except to the extent that portions hereof regulated by Federal law shall be governed by that Law.

(b) Subject to the provisions of subsection (c), each Party hereby unconditionally and irrevocably, to the fullest extent permitted by law, (i) consents to jurisdiction in any Proceeding arising out of or relating to this Agreement, or any of the Closing Agreements or the Transactions contemplated hereby, and agrees that any Proceeding arising out of this Agreement or any Closing Agreement shall be brought and prosecuted exclusively in a state court of competent jurisdiction located in the state or federal courts located in _____ County, Ohio, and any judgment obtained as a result thereof may be filed in any court of competent jurisdiction, (ii) submits to the *in personam* jurisdiction of those courts and waives and agrees not to assert in any Proceeding before any of those courts, by way of motion, as a defense or otherwise, any claim that it is not subject to the *in personam* jurisdiction of any of those courts, and (iii) waives any objection that it may now or hereafter have to the laying of venue in any Proceeding arising out of or relating to this Agreement, any Closing Agreement or the Transactions contemplated hereby brought in any of those courts and any claim that any Proceeding brought in any of those courts has been brought in an inconvenient forum.

(c) Unless otherwise provided pursuant to this Agreement, all disputes between the Parties shall be resolved, if possible, in accordance with the following dispute resolution procedures. As used in this Section 12.9, “Parties” shall refer to the disputing Parties, and “Party” shall refer to one or the other of the disputing Parties, as applicable.

(i) Negotiations by Senior Management.

- A. The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party’s authorized representative designated in writing as a representative of the Party (each a “Manager”). Either Manager may, by providing written notice to the other Party, request a meeting to initiate negotiations (“Negotiation Request”) to be held within seven (7) days of the other Party’s receipt of the Negotiation Request, at a mutually agreed time and place (either in person or telephonically). If the Dispute is not resolved within thirty (30) days of the other Party’s receipt of the Negotiation Request (“Initial Negotiation End Date”), the Managers shall refer the Dispute to the designated senior officers of their respective companies that have authority to settle the dispute (“Executive(s)”). No later than seven (7) days after the Initial Negotiation End Date (as applicable, the “Referral Date”), each Party shall provide one another written notice confirming the referral and identifying the name and title of the Executive who will represent the Party.
- B. No later than seven (7) days after the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than fifteen (15) days after the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute.
- C. All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be

used or referred to in any subsequent binding adjudicatory process between the Parties.

- (ii) In the event the controversy is not resolved by informal negotiation within sixty (60) days of the Negotiation Request, the parties agree to discuss, without binding obligation, whether to use mediation, arbitration or other alternative dispute resolution procedures, but neither party shall be obligated to do so and may, thereafter, institute any legal action in a court if permitted by and in accordance with this Agreement.

12.9 No Partnership; Relationship between Buyer and Seller. Nothing in this Agreement is intended or shall be construed to create any partnership, joint venture or similar relationship between Buyer and Seller; and in no event shall either Party take a position in any regulatory filing or Tax Return or other writing of any kind that a partnership, joint venture or other similar relationship exists. The Parties do not intend to form or hold themselves out as a *de jure* or *de facto* partnership, joint venture or similar relationship, to share profits or losses, or to share any joint control over financial decisions or discretionary actions. Notwithstanding anything herein to the contrary, neither Seller nor Buyer shall be prevented from exercising their respective rights or pursuing their remedies as owners of the Power Station and Transferred Assets, as applicable.

12.10 Severability. Whenever possible, each provision of this Agreement shall be interpreted in a manner as to be valid, binding and enforceable under applicable Law, but if any provision of this Agreement is held to be unenforceable under applicable Law, the provision shall be unenforceable only to the extent expressly so held, without affecting the remainder of the provision or the remaining provisions of this Agreement. The Parties shall negotiate in good faith to agree upon legal, valid and enforceable substitute provisions to carry out the purposes and intent of any unenforceable provision.

12.11 Time of the Essence. Time is hereby expressly made of the essence with respect to each and every term and provision of this Agreement. The Parties acknowledge that each will be relying upon the timely performance by the other of its obligations hereunder as a material inducement to each Party's execution of this Agreement.

12.12 Limitations on Damages. EXCEPT IN THE CASE OF A PARTY'S FRAUD, RECKLESSNESS OR WILLFUL MISCONDUCT, OR THE EVENT OF THIRD PARTY LIABILITY, NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY OR ANY OF ITS AND ITS AFFILIATES RESPECTIVE, OFFICERS, DIRECTORS, CONTRACTORS, SUBCONTRACTORS, ATTORNEYS, AGENTS, REPRESENTATIVES OR AFFILIATES, FOR ANY DAMAGES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, ARISING FROM THIS AGREEMENT OR ANY OF THE ACTIONS OR TRANSACTIONS PROVIDED FOR HEREIN, OTHER THAN ACTUAL DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR IN ANY CLOSING AGREEMENT, IN NO EVENT SHALL ANY PARTY BE LIABLE UNDER THIS AGREEMENT OR ANY CLOSING AGREEMENT, OR OTHERWISE AT LAW OR IN EQUITY, FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE DAMAGES, EXEMPLARY DAMAGES, LOST PROFITS OR DAMAGES THAT ARE REMOTE, SPECULATIVE,

INDIRECT, UNFORESEEN OR IMPROBABLE, OR ANY OTHER DAMAGES OTHER THAN ACTUAL DAMAGES. EACH PARTY HEREBY RELEASES THE OTHER PARTIES AND THEIR CONTRACTORS, SUBCONTRACTORS, AGENTS, AND AFFILIATES FROM ANY OF THOSE DAMAGES (EXCEPT TO THE EXTENT PAID TO A THIRD PARTY IN A THIRD PARTY CLAIM).

[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date first above written.

SELLER:

THE CITY OF NAPOLEON, OHIO, [an Ohio
municipal corporation]

By: _____
Name: _____
Title: _____

BUYER:

AMERICAN MUNICIPAL POWER, INC.,
an Ohio nonprofit corporation

By: _____
Name: _____
Title: _____

RESOLUTION NO. 006-18

**A RESOLUTION TO AMEND THE CITY OF NAPOLEON, OHIO
MUNICIPAL TAX CODE SECTION 194.134(C) TO CORRECT A
SCRIVENER'S ERROR, AMENDING THE REFERENCED
LANGUAGE**

WHEREAS, after the passage of Resolution No. 003-14 it was found to contain a scrivener's error in that it referenced Municipal Tax Code 194.134 Section B, when the intent was to reference 194.134 Section C, thus this language shall now be amended to reference the appropriate Section; **Now therefore**,

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

Section 1. That, City of Napoleon, Ohio Municipal Tax Code 194.134(C), as passed by Resolution No. 003-14, are hereby amended and enacted as follows:

“194.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information. A taxpayer registration update form is required of all residents eighteen years and older, and all businesses.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 194.10 of this Chapter, in addition to any applicable penalty described in section 194.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 194.10 of this Chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 194.99 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law. *(Source: ORC 718.26)*

(C) Information Submission by Landlords. On or before May 1 of each year, all property owners who rent to tenants of residential, commercial, or industrial premises, shall file with the Tax Administrator, a report showing the name, address, and phone

number, of each tenant who occupies residential, commercial, or industrial premises within the City of Napoleon. The list shall also include all name(s), address(es), and phone number(s), of any tenant who has vacated the property in the preceding twelve (12) month period. The list should also include, when the information is available to the landlord, the date in which the tenant vacated the property, along with the tenant's forwarding address. If a landlord is not in possession of a former tenant's forwarding address or other current contact information, the landlord will not be penalized pursuant to any provision in this Section 194.20. Any information referred to in this Section may be requested at any time under audit by the Tax Administrator. Such report shall be in writing, and shall be delivered to the Tax Administrator by one of the following methods:

- (1) Regular U.S. mail delivery to the City Income Tax Department
- (2) Delivered by electronic mail (E-mail) directly to the City Income Tax Department
- (3) Facsimile transmission directly to the City Income Tax Department
- (4) Hand delivery to the City Income Tax Department.

Forms and instruction for reporting shall be made available on the City's website. For purposes of this Section ~~(B)~~ C, "tenant" means:

- (1) If there is a written lease or rental agreement, the person(s) who signed the written lease or rental agreement with the owner or their agent.
- (2) If there is an oral lease or rental agreement, the person(s) who entered into the oral lease or rental agreement with the owner or their agent.

Failure to comply with this Section ~~(B)~~ C will result in:

- (1) Notification (sent by regular U.S. mail delivery) to landlord and requiring compliance within 30 days.
- (2) Subpoena (sent by certified mail) for the property owner or agent to appear before the Tax Administrator with required documentation (with hearing scheduled within 14 days of date mailed).
- (3) Prohibition. No person shall knowingly fail, refuse, or neglect to file any return or report required under this Chapter or under rules and regulations made under authority thereof; or file or knowingly cause to be filed any incomplete, false or fraudulent return, report or statement; or knowingly fail, refuse, or neglect to withhold or remit any City tax; or knowingly fail, refuse, or neglect to pay any City tax, penalty or interest; or aid or abet another in the filing of any incomplete, false or fraudulent return, report or statement.
- (4) Penalty. Any person who violates this Section (B) is guilty of a misdemeanor of the 1st degree, and in addition to other penalties provided by law, shall be fined not more than \$1,000.00 or imprisoned not more than six (6) months, or both."

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. If any section, subsection, paragraph, clause or provision or any part thereof of this ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this ordinance shall be unaffected by such adjudication and all the remaining provisions of this ordinance shall remain in full force

and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution shall be in full force and effect at the earliest time permitted by law.

Passed: _____
Joseph D. Bialorucki, Council President

Approved: _____
Jason P. Maassel, Mayor

VOTE ON PASSAGE ____ Yea ____ Nay ____ Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 006 -18 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.

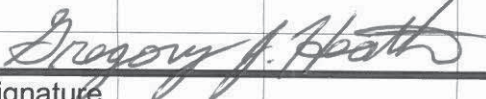
Gregory J. Heath, Clerk/Finance Director

CITY OF NAPOLEON, OHIO - PSCAF
POWER SUPPLY COST ADJUSTMENT FACTOR (PSCAF) - COMPUTATION OF MONTHLY PSCAF
COMPUTATIONS WITH CORRECTED DATA FROM JULY, 2015, THROUGH MARCH, 2017

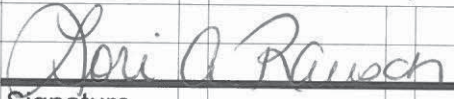
AMP Billed Usage Month	PSCAF City Billing Month	AMP - kWh Delivered As Listed on AMP Invoices	Purchased Power Supply Costs (*=Net of Known) (+ OR - Other Cr's)	Rolling 3-Month Totals		Rolling 3 Month Average Cost	Less: Fixed Base Power Supply Cost	PSCA Dollar Difference + or (-)	PSCA-Corrt'd. 3 MONTH AVG.FACTOR + Line Loss
				Current + Prior 2 Months					
				kWh	Cost				
				(a)	(b)				
(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)		
Actual Billed	Actual Billed w/Cr's	c + prior 2 Mo	d + prior 2 Mo	f / e	\$0.07194 Fixed	g + h	i X 1.075		
June '16	Aug '16	13,839,770	\$ 1,068,079.71	38,575,998	\$ 2,942,962.19	\$ 0.07629	\$ (0.07194)	\$ 0.00435	\$ 0.00468
July '16	Sep '16	14,844,510	*\$ 1,080,619.47	41,287,533	\$ 3,125,599.91	\$ 0.07570	\$ (0.07194)	\$ 0.00376	\$ 0.00404
Aug '16	Oct '16	16,864,052	\$ 1,210,058.88	45,548,332	\$ 3,358,758.06	\$ 0.07374	\$ (0.07194)	\$ 0.00180	\$ 0.00194
Sep '16	Nov '16	13,547,772	\$ 1,079,259.61	45,256,334	\$ 3,369,937.96	\$ 0.07446	\$ (0.07194)	\$ 0.00252	\$ 0.00271
Oct '16	Dec '16	12,402,405	\$ 955,761.68	42,814,229	\$ 3,245,080.17	\$ 0.07579	\$ (0.07194)	\$ 0.00385	\$ 0.00414
Nov '16	Jan '17	12,220,092	\$ 956,580.93	38,170,269	\$ 2,991,602.22	\$ 0.07838	\$ (0.07194)	\$ 0.00644	\$ 0.00692
Dec '16	Feb '17	13,827,811	\$ 1,089,497.78	38,450,308	\$ 3,001,840.39	\$ 0.07807	\$ (0.07194)	\$ 0.00613	\$ 0.00659
Jan'17	Mar '17	13,656,702	*\$ 1,025,645.91	39,704,605	\$ 3,071,724.62	\$ 0.07736	\$ (0.07194)	\$ 0.00542	\$ 0.00583
Feb'17	Apr '17	11,866,614	*\$ 912,320.61	39,351,127	\$ 3,027,464.30	\$ 0.07693	\$ (0.07194)	\$ 0.00499	\$ 0.00536
Mar'17	May '17	12,936,492	\$ 1,069,577.85	38,459,808	\$ 3,007,544.37	\$ 0.07820	\$ (0.07194)	\$ 0.00626	\$ 0.00673
Apr'17	June '17	11,497,068	\$ 943,085.70	36,300,174	\$ 2,924,984.16	\$ 0.08058	\$ (0.07194)	\$ 0.00864	\$ 0.00929
May'17	July '17	12,213,395	\$ 1,006,024.23	36,646,955	\$ 3,018,687.78	\$ 0.08237	\$ (0.07194)	\$ 0.01043	\$ 0.01121
June'17	Aug '17	13,580,367	\$ 1,096,910.02	37,290,830	\$ 3,046,019.95	\$ 0.08168	\$ (0.07194)	\$ 0.00974	\$ 0.01047
July'17	Sep '17	14,573,346	\$ 1,192,319.89	40,367,108	\$ 3,295,254.14	\$ 0.08163	\$ (0.07194)	\$ 0.00969	\$ 0.01042
Aug'17	Oct '17	14,326,956	\$ 1,182,800.05	42,480,669	\$ 3,472,029.96	\$ 0.08173	\$ (0.07194)	\$ 0.00979	\$ 0.01052
Sept'17	Nov'17	12,915,106	\$ 1,041,374.28	41,815,408	\$ 3,416,494.22	\$ 0.08170	\$ (0.07194)	\$ 0.00976	\$ 0.01049
Oct'17	Dec'17	12,743,776	*\$ 1,064,421.41	39,985,838	\$ 3,288,595.74	\$ 0.08224	\$ (0.07194)	\$ 0.01030	\$ 0.01107
Nov'17	Jan'18	12,424,075	\$ 1,088,533.30	38,082,957	\$ 3,194,328.99	\$ 0.08388	\$ (0.07194)	\$ 0.01194	\$ 0.01284
Dec'17	Feb'18	13,391,143	\$ 1,149,912.68	38,558,994	\$ 3,302,867.39	\$ 0.08566	\$ (0.07194)	\$ 0.01372	\$ 0.01475
Jan'18	Mar'18	13,957,533	\$ 1,336,329.96	39,772,751	\$ 3,574,775.94	\$ 0.08988	\$ (0.07194)	\$ 0.01794	\$ 0.01929

* Other (-) Credits / (+) Debits Included in Purchased Power Costs, Not Listed on AMP Billings:

PSCAF - Preparers Signature:

Name - Gregory J. Heath, Finance Director

 Signature Date 2/26/2018

PSCAF - Reviewers Signature:

Name - Lori A. Rausch, Utility Billing Administrator

 Signature Date 2/26/2018

BILLING SUMMARY AND CONS									
2018 - MARCH BILLING WITH JANUARY 2018 A									
PREVIOUS MONTH'S POWER BILLS - PU									
DATA PERIOD									
AMP-Ohio Bill Month									
City-System Data Month									
City-Monthly Billing Cycle									
===== WIND ===== SOLAR ===== TRANSMISSION, SERVICE FEES & MISC. CONTRACTS =====									
(	NYPA	JV-5	JV-6	AMP SOLAR	EFFNCY.SMART	TRANSMISSION	SERVICE FEES	MISCELLANEOUS	TOTAL -
PURCHASED POWER-RESOURCES -> (	HYDRO	HYDRO	WIND	PHASE 1	POWER PLANT	CHARGES	DISPATCH, A & B	CHARGES &	ALL
(	SCHED. @ NYIS	7x24 @ ATSI	SCHED. @ ATSI	SCHED. @ ATSI	2017 - 2020	Other Charges	Other Charges	LEVELIZATION	RESOURCES
Delivered kWh (On Peak) ->	664,715	2,297,472	60,024	65,161	0	0	0	0	15,166,812
Delivered kWh (Off Peak) ->									255,376
Delivered kWh (Replacement/Losses/Offset) ->		33,430							33,430
Delivered kWh/Sale (Credits) ->									-1,498,085
Net Total Delivered kWh as Billed ->	664,715	2,330,902	60,024	65,161	0	0	0	0	13,957,533
Percent % of Total Power Purchased->	4.7624%	16.7000%	0.4300%	0.4669%	0.0000%	0.0000%	0.0000%	0.0000%	100.0000%
								Verification Total ->	100.0000%
COST OF PURCHASED POWER:									
DEMAND CHARGES (+Debits)									
Demand Charges	\$6,938.49	\$34,667.97	\$1,593.83			\$158,857.43			\$340,102.94
Debt Services (Principal & Interest)		\$55,367.84							\$423,604.17
DEMAND CHARGES (-Credits)									
Transmission Charges (Demand-Credits)		-\$16,524.13	-\$46.75						-\$66,199.44
Capacity Credit	-\$4,310.35	-\$14,428.23	-\$119.33						-\$120,406.37
Sub-Total Demand Charges	\$2,628.14	\$59,083.45	\$1,427.75	\$0.00	\$0.00	\$158,857.43	\$0.00	\$0.00	\$577,101.30
ENERGY CHARGES (+Debits):									
Energy Charges - (On Peak)	\$9,645.40	\$46,127.06		\$5,669.03		\$7,800.36			\$353,482.82
Energy Charges - (Replacement/Off Peak)									\$22,598.10
Net Congestion, Losses, FTR	-\$13,196.92								\$278,180.75
Transmission Charges (Energy-Debits)									\$24,755.35
ESPP Charges					\$18,154.46				\$18,154.46
Bill Adjustments (General & Rate Levelization)									-\$56,623.62
ENERGY CHARGES (-Credits or Adjustments):									
Energy Charges - On Peak (Sale or Rate Stabilization)									-\$64,418.25
Net Congestion, Losses, FTR									\$0.00
Bill Adjustments (General & Rate Levelization)	\$3,320.28								\$902.89
Sub-Total Energy Charges	-\$231.24	\$46,127.06	\$0.00	\$5,669.03	\$18,154.46	\$7,800.36	\$0.00	\$0.00	\$577,032.50
TRANSMISSION & SERVICE CHARGES, MISC.:									
RPM / PJM Charges Capacity - (+Debit)						\$175,098.09		-\$3,995.52	\$171,102.57
RPM / PJM Charges Capacity - (-Credit)									\$0.00
Service Fees AMP-Dispatch Center - (+Debit/-Credit)									\$0.00
Service Fees AMP-Part A - (+Debit/-Credit)							\$2,946.27		\$2,946.27
Service Fees AMP-Part B - (+Debit/-Credit)							\$8,147.32		\$8,147.32
Other Charges & Bill Adjustments - (+Debit/-Credit)									\$0.00
Sub-Total Service Fees & Other Charges	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$175,098.09	\$11,093.59	-\$3,995.52	\$182,196.16
TOTAL - ALL COSTS OF PURCHASED POWER	\$2,396.90	\$105,210.51	\$1,427.75	\$5,669.03	\$18,154.46	\$341,755.88	\$11,093.59	-\$3,995.52	\$1,336,329.96
Percent % of Total Power Cost->	0.1794%	7.8731%	0.1068%	0.4242%	1.3585%	25.5744%	0.8302%	-0.2990%	100.0000%
								Verification Total ->	\$1,336,329.96
Purchased Power Resources - Cost per kWh->	\$0.003606	\$0.045137	\$0.023786	\$0.087000	\$0.000000	\$0.000000	\$0.000000	\$0.000000	\$0.095743
									(Northern Pool Power - On-Peak + Off-Peak - Energy Charge/kWH) = JV2 Electric Service Rate ->
									\$0.013448
									(Northern Pool Power - On-Peak + Off-Peak - Energy Charge/kWH) = JV5 Electric Service Rate ->
									\$0.013448



City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

www.napoleonohio.com

Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: Mayor & City Council
Gregory J. Heath, City Finance Director
Aaron Behrman, O.D.O.T. District 2 LPA
Coordinator
Date: March 14, 2018
Subject: Industrial Drive Street Improvements (PID 102253)
Recommendation of Award

On Wednesday, March 14, 2018, bids were opened and read aloud for the above referenced project. Three (3) bids were submitted and read as follows:

Vernon Nagel, Inc.	\$3,217,347.39
Geddis Paving & Excavating, Inc.	\$3,357,369.98
Miller Bros. Const., Inc.	\$3,524,429.26

The published Engineer's Estimate with 10% contingency for this project is \$3,930,000.00. This project consists of reconstructing the roadway and replacement of the utilities, curbing, concrete walks, and drive approaches on Industrial Drive from American Road up to (not including) the railroad crossing near E. Riverview Avenue.

This project is partially funded through the Small City grant program (O.D.O.T.). This grant covers 95% of the construction costs associated with the street and drainage portions of the project up to \$1,956,050.00 in grant funds.

Having reviewed the submitted bids, it is my recommendation that Council award Vernon Nagel, Inc. the contract for the Industrial Drive Street Improvements Project (PID 102253) in the amount of \$3,217,347.39. If you have any questions or require additional information, please contact me at your convenience.

CEL



City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

www.napoleonohio.com

Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: Mayor & City Council
Gregory J. Heath, City Finance Director
Date: March 19, 2018
Subject: 2018 Transportation Alternatives Program Grant Application – Legislation of Support and Authority to Sign Documents

Staff is currently pursuing funding to cover a portion of the costs associated with designing and constructing a multi-use path on Jahns Road, W. Riverview Avenue, and other minor locations to increase connectivity between the area around the school, the trail system in Ritter Park, and our downtown. As part of this program, legislation illustrating City Council's support of this project, as well as authorization to sign all documents, is required. Please direct the Law Director to draft the appropriate legislation.

CEL

City of Napoleon, Ohio

TREE COMMISSION

MEETING AGENDA

Monday, March 19, 2018 at 6:00 pm

LOCATION: City Building, 255 West Riverview Avenue, Napoleon, Ohio

1. Call to Order.
2. Approval of Minutes: February 19, 2018 *(In the absence of any objections or corrections, the Minutes shall stand approved.)*
3. Review Tree Call Reports.
4. Plan Arbor Day Observation.
5. Spring Contracts Update.
6. Award Spring Topsoil Contract.
7. Any other matters to come before the Commission.
8. Adjournment.



Gregory J. Heath
Finance Director/Clerk of Council

TREE COMMISSION

Meeting Minutes

Monday, February 19, 2018 at 6:00 pm

PRESENT

Commission Members

Jim Fitzenreiter-Chair, Dave Volkman (arrived at 6:03 pm), Ed Clausing, Larr Etzler, Jeff Mires (Council Representative)

City Staff

Marty Crossland

Recorder

Roxanne Dietrich

ABSENT

Commission Member

Kyle Moore

Call to Order

Chairman Fitzenreiter called the meeting to order at 6:00 pm.

Approval of Minutes

Hearing no objections or corrections, the minutes from January 15, 2018 were approved as presented.

Review Tree Call Reports

Crossland reported Lavora Johnson complained about the bird droppings and berries that are a result from the pear trees at her place on Chesterfield in Twin Oaks. There is a high concentration of pear trees in that area and taking her trees out will only address the immediate problem, it will not solve the areal dilemma.

6:03 pm - Volkman arrived

Fitzenreiter said a seasonal event does not constitute an emergency for whole year, please let her know we will wait and see how the tree comes out this year.

From last month's report, 855 Maple Street, is that something you saw or did someone call that in? Crossland said the tree trimming company saw it and thought it should come down. I'm not sure if the tree is split or it is a poor attachment. Fitzenreiter suggested let's put this on our list to look at in May once it leaves out.

Volkman asked about the tree at 527 Sheffield.

Crossland said he believes the tree they are questioning/want removed is the one to the south closest to the drive.

Fitzenreiter added 527 Sheffield to the May list.

Crossland said some of the Norway Maples were tabled last month, 221 West Clinton (Moxie Salon), 712 Welsted and 65 Duquesne. The Norways at the American Legion and Glenwood Park will come out.

Fitzenreiter said these will be added to the May list.

Plan Arbor Day Observation

Arbor Day is April 27.

Crossland stated he put in the tree planting bid packet to charge installation on all tree plantings except one. Some areas to be considered to plant the Arbor Day tree include, the downtown tree pits or the very first tree at Oakwood Park Drive.

Etzler asked if either the Girl or Boy Scout troops will be involved with the Arbor Day celebration/tree planting this year. Crossland will look into this. The Arbor Day



City of Napoleon, Ohio

255 West Riverview Avenue, P.O. Box 151
Napoleon, OH 43545
Telephone: (419) 592-4010 Fax: (419) 599-8393
www.napoleonohio.com

Memorandum

To: City Council, Mayor, City Law Director, City Manager, Department Supervisors, Newsmedia
From: Gregory J. Heath, Finance Director/Clerk of Council *GJH*
Date: March 16, 2018
Subject: Parks & Recreation Committee – Cancellation

The regularly scheduled meeting of the Parks and Recreation Committee for Monday, March 19, 2018 at 6:00 pm has been CANCELED due to lack of agenda items.



UPdate

A weekly newsletter presented by AMP President/CEO Marc Gerken

March 16, 2018

AMP members receive Certificates of Excellence in Reliability

By Jennifer Flockerzie - technical services program coordinator

A number of AMP member utilities have received national recognition for achieving exceptional electric reliability in 2017. Recipients of the Certificate of Excellence in Reliability were announced during the 2018 AMP Technical Services Conference on March 14.

The recognition comes from the American Public Power Association (APPA), which helps public power systems track outage and restoration data through the [eReliability Tracker](#) service and then compares that data to national statistics from the U.S. Energy Information Administration for all types of electric utilities. AMP provides a subscription to the eReliability Tracker to all of its members.

The following AMP members received the Certificate of Excellence in Reliability:

- Coldwater Board of Public Utilities
- Cuyahoga Falls Electric System
- Dover Light & Power
- Borough of Ephrata Electric Division
- Town of Front Royal Electric Department
- Hillsdale Board of Public Utilities
- Village of Minster Electric Department
- Orrville Utilities
- Painesville Municipal Electric Division
- Piqua Power System
- Princeton Electric Plant Board
- Village of Versailles Utilities
- City of Wadsworth Electric and Communications
- Wyandotte Municipal Services



For more information on how the eReliability Tracker can help improve reliability of your electric system, please contact me at jflockerzie@amppartners.org or 614.540.0853.

Electric vehicles present benefits and risks to public power

By Erin Miller - director of energy policy and sustainability

The Focus Forward Advisory Council meeting was held March 12, via WebEx.

Patricia Keane, manager, regulatory policy and business programs with the American Public Power Association (APPA)

presented on "Public Power and Electric Vehicles."

As part of their Public Power Forward Initiative, APPA has created an Electric Vehicle (EV) Team that includes engineering services, government relations and regulatory affairs staff members. They have also created an EV Interest Group for members.



Keane gave an overview of APPA's report, [Public Power Guide to Understanding the U.S. Plug-in Electric Vehicle Market](#), discussed the benefits and risks of EV adoption and provided an update on funding sources for EV charging stations (DEED, the Volkswagen settlement and Electrify America).

The report suggests that EVs represent a load and revenue growth opportunity for public power utilities, offers customers the potential benefit of lower vehicle operating and maintenance costs, and society can benefit from reduced emissions. However, if left unmanaged, customers can add to a utilities peak demand and add stress to distribution and transmission infrastructure.

Keane suggested that public power can manage this load by:

- studying charging behavior and adoption forecasts,
- reviewing current rate structures and determining how rates can be designed to deter drivers from charging during peak demand, and
- managing the time and rate of power consumption for customers charging their vehicles.

In the future, vehicles will be able to put electricity back into the grid. Pilot studies on this subject are underway in Delaware, California and Europe.

She also explained ways public power can promote further adoption of EVs through:

- offering incentives (rebates on the vehicles or charging equipment),
- leading by example and electrifying the utility's fleet,
- deploying public charging stations,
- working with dealers, and
- educating customers.

The slides and a recording of the webinar are available on the [AMP Member Extranet](#) under [Focus Forward](#), Advisory Council Meeting Notes/Webinars (must be logged in). For more information, please contact me at emiller@amppartners.org or 614.540.1019.

A successful showing at 2018 Technical Services Conference

By Michelle Palmer, PE - vice president of technical services

Dozens of members and vendors participated in the 2018 AMP Technical Services Conference, held in Columbus on March 13 and 14. The annual conference provided an opportunity to increase technical understanding and capabilities, learn about products and technologies, strengthen relationships with other members, and exchange ideas with other utilities facing similar challenges.

Topics on this year's agenda included:

- Versailles 4kV Project - Kyle Francis, Versailles
- AMI - Jared Price, AMP
- Fusing and other Topics - GDP Group
- PJM - Steve Lieberman, AMP
- Understanding Stray Voltage - Jerry Josken, UC Synergetic
- Microgrids - Chris Evanich, S&C Electric Company

- Mutual Aid Protocol - Ed Krieger, Piqua Power System, and Bob Rumbaugh, AMP
- eReliability - Alex Hofmann, APPA
- Energy Storage Application on T&D Systems - Jeffrey Plew, NEXtera Energy Resources
- Smallcell Wireless Update - Lisa McAlister, AMP



Members also had the opportunity to learn about and interact with the latest electric utility equipment and services during the vendor expo.

Thank you to all of our speakers, attendees and vendors for ensuring the conference's continued success. For those interested in further technical services and training opportunities, a copy of the 2018 AMP Training Catalog is available on the [AMP Member Extranet](#) (login required) on the [AMP website](#).

For more information on technical services, contact Jennifer Flockerzie at jflockerzie@amppartners.org or 614.540.0853.

Energy markets update

By Jerry Willman - assistant vice president of energy marketing

The April 2018 natural gas contract decreased \$0.05/MMBtu to close at \$2.681 yesterday. The EIA reported a withdrawal of 93 Bcf for the week ending March 9. Market consensus for this week was a withdrawal of 98 Bcf. Although the withdrawal was considered bearish, it was consistent with the five-year average of 97 Bcf.

On-peak power prices for 2019 at AD Hub closed yesterday at \$34.71/MWh, which was \$.41/MWh higher for the week.

On Peak (16 hour) prices into AEP/Dayton hub				
Week ending March 16				
MON	TUE	WED	THU	FRI
\$39.76	\$43.42	\$38.27	\$34.69	\$36.25
Week ending March 9				
MON	TUE	WED	THU	FRI
\$31.41	\$33.02	\$35.99	\$35.21	\$33.83
AEP/Dayton 2019 5x16 price as of March 15 — \$34.71				
AEP/Dayton 2019 5x16 price as of March 8 — \$34.30				

AFEC weekly update

By Jerry Willman

The AMP Fremont Energy Center had another strong week of production, as below average temperatures continued to keep PJM market prices above plant costs. Duct firing operated for 147 hours this week. The

plant generated at a 95 percent capacity factor (based on 675 MW rating).

PSGC annual Souper Bowl celebrates five years

By Ashlie Kuehn - Prairie State Generating Company

For the fifth-straight year, Prairie State Generating Company (PSGC) employees took part in the annual Souper Bowl program. PSGC starts the food drive every year on the Monday following the Super Bowl by collecting non-perishable food items and cash donations to support the Combating Hunger on Weekends (CHOW) program at the Okawville Grade School and the Marissa Food Pantry.

CHOW was established at PSGC's home school district, Okawville Grade School, when parents and teachers noticed that children enrolled in the free and reduced lunch program were not receiving meals at home over the weekend. The program gives children enrolled a bag of ready to eat foods at the end of each school week. The Marissa Food Pantry serves the food needs in and around Marissa, Ill.

This year, PSGC's donations totaled over \$1,800. The campus began delivering the collected goods on Friday, Feb. 23, and completed the deliveries on Tuesday, Feb. 27.



PSGC food drive

Register now for Webinars

An internet connection and a computer are all you need to educate your staff. Individual webinars are \$99 or sign up for a series at a discounted rate. Register today at www.PublicPower.org under Education & Events. Non-members can enter coupon code **AMP** to receive the member rate.

- Public Power Governance Series:
Support Long-term Fiscal Fitness **April 4**
- Electric Utility 101 Series:
Operating a Local Public Power System **April 5**
- Electric Utility 101 Series:
Managing a Public Power Utility Enterprise **April 19**
- Public Power Governance Series:
Measure and Improve Performance **April 25**



Classifieds

Members interested in posting classifieds in Update may send a job description with start and end advertisement dates to zhoffman@amppartners.org.

City of Napoleon seeks applicants for three positions

Human resources director

The City of Napoleon is currently accepting applications for the position of human resources director. This position is responsible for developing policy and directing and coordinating human resources activities, such as employment, compensation, labor relations, benefits and training. This is a full-time position that reports to the city manager with a pay rate of \$2,110.61 up to \$3,202.93 bi-weekly. Bachelor's degree with

course work in human resources and five years of related work experience preferred. A valid Ohio driver's license is required.

Applications may be obtained beginning Wednesday, March 14, 2018, between 7:30 a.m. and 4:00 p.m. from the City of Napoleon Administration Building at 255 W. Riverview Ave. P.O. Box 151, Napoleon, Ohio, 43545, and online at www.napoleonohio.com. To be considered, a properly completed, **notarized** application must be returned to the above address by 4:00 p.m. on Friday, March 30, 2018. The City of Napoleon is an Equal Opportunity Employer.

Staff engineer/licensed staff engineer

The City of Napoleon is currently accepting applications for the position of staff engineer/licensed staff engineer. This position is primarily responsible for engineering design and construction inspection. Graduation from an accredited engineering school of recognized standing with a Bachelor of Science in Civil Engineering or related field is required. Applicants must also possess or be able to obtain within one year a Fundamentals of Engineering or Engineer in Training certificate, or a Professional Engineer license. This is a full-time position with a pay rate of \$19.70 up to \$34.48 per hour, depending on licensing. A valid Ohio driver's license is required.

Applications may be obtained beginning Wednesday, March 19, 2018, between 7:30 a.m. and 4:00 p.m. from the City of Napoleon Administration Building at 255 W. Riverview Ave. P.O. Box 151, Napoleon, Ohio, 43545, and online at www.napoleonohio.com. To be considered, a properly completed, **notarized** application must be returned to the above address by 4:00 p.m. on Friday, March 30, 2018. The City of Napoleon is an Equal Opportunity Employer.

IT administrator

The City of Napoleon is currently accepting applications for the position of IT administrator. This position is responsible for performing complex skilled work involving IT services. This is a full-time position with a pay rate of \$1,851.20 up to \$2,750 bi-weekly. Applicant must possess a high school diploma or equivalent and a valid Ohio driver's license.

Applications may be obtained beginning Wednesday, March 19, 2018, between 7:30 a.m. and 4:00 p.m. from the City of Napoleon Administration Building at 255 W. Riverview Ave. P.O. Box 151, Napoleon, Ohio, 43545, and online at www.napoleonohio.com. To be considered, a properly completed, **notarized** application must be returned to the above address by 4:00 p.m. on Friday, March 30, 2018. The City of Napoleon is an Equal Opportunity Employer.

Village of Minster seeks applicants for three positions

Wastewater superintendent

The Village of Minster is seeking a qualified candidate for the position of wastewater superintendent. The potential candidate will be responsible for the continuous operation and maintenance of a Class III wastewater treatment facility. Successful candidate should have a minimum of a high school degree supplemented by specialized academic training in the areas of chemistry and biology and specialized training in the operation of a wastewater treatment facility. A degree in science or engineering preferred; experience in a superintendent position preferred; with a minimum of five years of experience operating a biological treatment process facility; a valid Ohio Class III Wastewater Treatment certificate; knowledge of the Ohio EPA's rules and regulations regarding wastewater treatment; a valid driver's license.

For information about the position and to download an application, visit, www.minsteroh.com. To apply, send resume, application with at least three references to: Village Administrator, Village of Minster, P.O. Box 1, Minster, Ohio 45865. Applications will be accepted until the position is filled.

Water superintendent

The Village of Minster is seeking a qualified candidate for the position of water treatment superintendent. The potential candidate is responsible for the continuous operation and maintenance of a Class I water supply works and the delivery of safe, clear and sufficient water to the community. Successful candidate should have a minimum of a high school degree supplemented by specialized academic training in the areas of chemistry and biology and specialized training in the operation of a water treatment facility. A degree in science or engineering preferred; experience in a superintendent position preferred; a valid Ohio Class I Water Supply certificate. A minimum of five years of experience in a Class I facility; a valid driver's license; knowledge of the Ohio EPA's rules and regulations regarding water treatment.

For information about the position and to download an application, visit, www.minsteroh.com. To apply, send resume, application with at least three references to: Village Administrator, Village of Minster, P.O.

Box 1, Minster, Ohio 45865. Applications will be accepted until the position is filled.

Wastewater/water superintendent

The Village of Minster is seeking a qualified candidate for the position of wastewater superintendent/water superintendent. The potential candidate will be responsible for the continuous operation and maintenance of a Class III wastewater treatment facility and a Class I water treatment facility. Successful candidate should have a minimum of a high school degree supplemented by specialized academic training in the areas of chemistry, science and biology and specialized training in the operation of a water treatment facility and a wastewater treatment facility. A degree in science or engineering preferred; experience in a superintendent position preferred; with a minimum of five years' experience in a Class I water facility and a Class III wastewater facility; valid Ohio Class I Water Supply certificate and a Ohio Class III Wastewater Treatment certificate; a valid driver's license; knowledge of the Ohio EPA's rules and regulations regarding water and wastewater treatment.

For information about the position and to download an application, visit, www.minsteroh.com. To apply, send resume, application with at least three references to: Village Administrator, Village of Minster, P.O. Box 1, Minster, Ohio 45865. Applications will be accepted until the position is filled.

City of Wadsworth seeks applicants for two positions

City engineer

The City of Wadsworth is seeking applicants for the position of city engineer. This full-time position is responsible for planning, coordinating and directing all engineering activities of the city, and is the administrative head of the Engineering Services Division in the Public Service Department.

Qualified applicants will possess a bachelor's degree in civil engineering or a related field, be a registered professional engineer (PE) in the state of Ohio, have seven years of progressively responsible administrative experience as a supervisor at the mid-management level or above in civil engineering services and/or other functions of public works, and five years of experience as a working PE involved in civil engineering. Interested applicants may send a resume to Jim Kovacs, human resources manager, at jkovacs@wadsworthcity.org. To learn more about this position and the City of Wadsworth, visit www.wadsworthcity.com.

CityLink business manager

The City of Wadsworth is seeking applicants for the position of CityLink business manager. This full-time position is responsible for planning, organizing and directing the business and operations of the CityLink enterprise for services including cable, internet, voice and home energy. It is a highly responsible, technical, administrative, managerial and operational position, exercising independent judgment. The incumbent will be responsible for strategic planning, developing capital and operating budgets, ensuring the efficiency of business operations, workforce planning, establishing business goals and plans with the goal of maintaining our current customer base and identifying and pursuing opportunities for future growth to ensure long-term success.

Qualified applicants will possess a bachelor's degree in public administration, management, business administration, accounting, communications or other related field. Applicants should have three years of progressive management, supervisory or administrative experience in the telecommunications industry. The selected candidate must be energetic, self-motivated, hungry to succeed and able to work independently within company guidelines. Candidate must have excellent interpersonal, leadership, presentation and collaborative skills to work effectively with teams throughout the organization. Interested applicants may send a resume to Jim Kovacs, human resources manager, at jkovacs@wadsworthcity.org. To learn more about this position, CityLink products and services, and the City of Wadsworth, visit www.wadsworthcity.com.

Village of Edgerton seeks applicants for village administrator

The Village of Edgerton, Ohio, population 2000, is seeking resumes for the position of village administrator. The person appointed will report to the mayor and will provide general administrative direction; supervise personnel; advise employees on proper procedures; direct the operation for all utility, street, park, zoning activities; and perform economic development and grant writing activities. A complete job description is available by contacting the Village of Edgerton, fiscal officer, at denisek@edgerton-ohio.com.

The candidate should have a high school diploma or GED, with college level course work in public or business administration. A bachelor's degree, management experience and some experience with municipal government and/or public utility operations is preferred. A valid driver's license required. Salary commensurate with qualifications and experience. Please submit resume, cover letter and salary requirements via email to denisek@edgerton-ohio.com or mail to Mayor, Village of Edgerton, P.O. Box 609, Edgerton, Ohio 43517. The Village of Edgerton is an Equal Opportunity Employer.

City of Bowling Green seeks applicants for park maintenance specialist

The City of Bowling Green is seeking applicants for the position of park maintenance specialist. This hourly, full-time position is responsible for ensuring that park grounds, buildings and sports facilities are properly maintained. This position prepares facilities for rentals; cleans restrooms and buildings; maintains and operates equipment; maintains grounds; prepares athletic fields; checks mechanical pool operations; prepares for special events; and performs other related duties as assigned. Must be able to work various shifts and weekends.

At minimum, applicants must have a high school diploma or equivalent; certification/licenses include first aid/CPR, certified pool operator or ability to obtain within six months of hire; commercial applicator license or ability to obtain within 12 months of hire; one to six months relevant experience; valid Ohio driver's license. Interested persons must complete the application that is available [online](#) or available in the Personnel Department. Résumés may be included, but will not substitute for a completed application. Applications must be completed and returned to the Personnel Department, City of Bowling Green, 304 N. Church St., Bowling Green, Ohio 43402. Telephone: .419.354-6200; email: BGPersonnel@bgohio.org Office hours: M-F 8:00 a.m. - 4:30 p.m. A copy of the job description will be provided. The deadline for making application is 4:30 p.m. March 21. AA/EEO

Village of Montpelier seeks applicants for water treatment plant operator

The Village of Montpelier is seeking applicants for the position of water treatment plant operator for their Ohio Class II, two MGD groundwater lime softening plant.

All applicants must have a valid high school diploma or equivalent; valid Ohio driver's license; perform mathematical calculations; communicate effectively; computer literate; work as a team member or alone; provide safe operation of the water treatment facilities in compliance with federal, state and local requirements. Performs all duties of an operator as necessary, as well as other related duties as assigned. Required to do general equipment, building and grounds maintenance; and be certified to conduct lab chemical and microbiological analysis. Candidate will be required to attend training as needed. Work hours include weekends and holidays. All employees are subject to call out if an emergency arises. Competitive pay and benefits package, and OPERS pension plan. Applications are available in the Utilities Office or on the Village's [web page](#) along with a job description. Applications will be taken until 4:30 p.m. on March 23, 2018. To apply, send application and resume with references to: Village Manager, WTP Job Opening, P.O. Box 148, Montpelier, Ohio 43543, or email application and resume with references to: kbrooks@montpelieroh.org EOE

City of Hamilton seeks applicants for four positions

Director of utility operations

The City of Hamilton is seeking applicants for the position of director of utility operations. This position is responsible for professional and administrative work in the planning, organization, direction, supervision and coordination of the operations and activities of the City's Department of Utility Operations. The Department of Utility Operations consists of electric power transmission and distribution, hydroelectric plant operations, fossil power plant operations, water production and wastewater reclamation facilities. This position reports directly to the executive director of infrastructure, but extensive leeway is granted for the exercise of independent judgement in directing the Department of Utility Operations. Direct and indirect supervision is exercised over professional, managerial/supervisory, technical and clerical personnel.

Applicants must possess a bachelor's degree in business administration or engineering, with five years of professional experience in public electric utility management, including supervisory experience. A master's degree in business administration or engineering, as well as a valid registration as a professional engineer in the state of Ohio or other equivalent certification from another state is preferred.

Applications must be completed by May 18, 2018, at 11:59 p.m., EST. To view the job description or to apply, click [here](#).

Business Analyst

The City of Hamilton is seeking applicants for the position of business analyst. This position is responsible for professional, administrative work in the business division of the Infrastructure Department. The nature of the work performed requires that an employee in this class establish and maintain cooperative working relationships with directors and supervisory personnel in other city departments and divisions. This position is also responsible for assisting the utility business manager with various tasks with the business division (assisting in the preparation of infrastructure budgets, assisting with complex financial and utility rate analyses). This position is notified by the supervisor the objectives for and methodologies to use to enforce standards and orders, develop new policies or to propose improvements to existing policies and standards.

Applicants must possess a bachelor's degree in business administration, finance, accounting, math, engineering or other closely related fields, as well as one year of experience in one or more of the following fields: accounting, utility/code enforcement, finance, business administration, public administration, economics, mathematics or engineering. Three years of experience in one or more of these fields is preferred.

Applications must be completed by May 17, 2018, at 11:59 p.m., EST. To view the job description or to apply, click [here](#).

Energy management administrator

The City of Hamilton is seeking applicants for the position of energy management administrator in the Public Utilities Department. This position is responsible for difficult professional and administrative work in planning, organizing and coordinating energy procurement, financial and operational planning, and analysis and budgeting functions for the Infrastructure Department. Work is performed under the general direction and supervision of the utility business manager, but considerable leeway is granted for the exercise of independent judgement and initiative. This position also assists in procuring natural gas and power supplies for the city, assists with preparation of utility operating and capital budgets, participates in utility financings and will perform complex financial analyses for all infrastructure divisions, as well as support city economic development efforts.

Applicants must hold a bachelor's degree from a college or university of recognized standing in the field of business administration, finance, engineering, computer science or other related field, as well as five years of experience in public utility management and financial analysis.

Applications must be completed by March 26, 2018, at 11:59 p.m., EST. To view the job description or to apply, click [here](#).

Environmental health and safety manager

The City of Hamilton is seeking applicants for the position of environmental health and safety manager in the Public Utilities Department. This position is responsible for compliance with health, safety and environmental regulations at local, state and federal levels; partnering with managers, safety coordinators and associates to ensure the safety of employees, customers and the environment. Work is performed under the general direction and supervision of the executive director of infrastructure, but considerable leeway is granted for the exercise of independent judgement and initiative.

Applicants must hold a bachelor's degree from a college or university of recognized standing in the field of safety, industrial engineering, industrial hygiene or other related field, as well as five years of experience in developing, implementing and overseeing compliance of OSHA based safety programs, including some experience in regulatory agency reporting.

Applications must be completed by March 26, 2018, at 11:59 p.m., EST. To view the job description or to apply, click [here](#).

Village of Pemberville seeks applicants for electric distribution lineworker

The Village of Pemberville is seeking applicants for the position of electric distribution lineworker. The lineman will be responsible for delivering reliable electric service to customers by performing inspections, maintenance, operations and construction work on substations, transmission, distribution and streetlight systems with the village to the level that their training dictates. Having or obtaining a CDL is required, as is mechanical knowledge and experience in the operation of equipment, including but not limited to: bucket truck, digger derrick, backhoe, wood chipper, chainsaws and dump truck; with a willingness to follow all current and future safety practices and maintain equipment.

Wage is negotiable. [Applications](#) are available on the village [website](#). Please submit a resume and application to the Village of Pemberville, 155 Main St., P.O. Box 109, Pemberville, Ohio 43450, by March 31, 2018.

Opportunities available at AMP

AMP is seeking applicants for the following positions:

Intern - generation operations

Help desk specialist

Smithland Hydro Plant operations & maintenance supervisor

Energy analyst

Advanced metering infrastructure (AMI) program manager

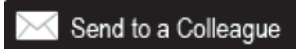
For complete job descriptions, please visit the "careers" section of the [AMP website](#).

American Municipal Power, Inc.

STAY CONNECTED



www.amppartners.org



Legislative Bulletin

March 16, 2018

OML UPDATE AT-A-GLANCE

Here are the top three things you need to know from this past week:

- An appeal has been filed by approximately 160 municipalities in the ongoing municipal lawsuit challenging the state's centralized collection of net profit business filings as made law in HB 49. Judge David Cain of the Franklin County Common Pleas Court rejected a request to stay his ruling in favor of the state while the municipalities' appeal the ruling to the 10th District Court of Appeals.
- The Bureau of Worker's Compensation has received 444 applications for their Firefighter Exposure to Environmental Elements Grant Program. The number of grants awarded would total \$4.7 million. The BWC has indicated their intention to award the grant to every qualifying fire department.
- The Ohio unemployment rate dropped from 4.9% in December to 4.7% in January. The national unemployment rate stays at 4.1% for the fifth consecutive month.

OML ANNOUNCES DATES FOR UPCOMING REGIONAL CONFERENCES

This year, the Ohio Municipal League is excited to announce the launch of our first-ever Regional Conferences. Throughout the spring and summer of 2018, the League staff will be bringing important elements of our Annual Conference right to the doorstep of the local leaders who serve Ohio's cities and villages.

This new adventure was catalyzed by the understanding that not all who wish to attend our Annual Conference are able to, whether they are prevented by the distance or time constraints. The goal of our Regional Conferences is to alleviate both of those concerns. We will be condensing timely parts of our Annual Conference down to a single day of workshops, sessions and featured speakers. It is our hope that these conferences give all local officials the ability to hear speakers, attend workshops and connect with local leaders.

The dates and locations for the Regional Conferences are as follows:

- **Southeast:** Friday, May 18th at the Ohio University Conference Center in Athens.
- **Southwest:** Friday, June 8th at the Manor House Banquet Center in Mason.
- **Northeast:** Friday, June 23rd at the Pro Football Hall of Fame in Canton.
- **Northwest:** Friday, August 17th at the Hancock Hotel in Findlay.

Registration forms will be electronically distributed shortly. We encourage you to sign up as soon as possible, as space will be limited, and we look forward to seeing you there!

SMALL CELL BILL GETS SECOND HEARING IN SENATE COMMITTEE

This week, many representatives from the interested parties who collaborated for months on the correcting the language in last year's SB 331 preempting the local control of small cell infrastructure deployment spoke in favor of the compromise they had reached. HB 478, which is sponsored by Rep. Smith (R - Bidwell) and Rep. LaTourette (R - Chesterland) modifies the law regarding wireless service and the placement of small cell wireless facilities in the public way.

During its second hearing before the Senate Public Utilities Committee, Dana McDaniel, City Manager for the Dublin spoke before the committee, thanking the legislative leadership that facilitated the compromise and praising the work of the many coalitions who worked to make this legislation possible. The League's Executive Director, Kent Scarrett, submitted written proponent testimony, which you can read [HERE](#). The committee was also given written testimony from Ted Staton from Upper Arlington, Don Schonhardt from Hillard, Keary McCarthy from the Ohio Mayors Alliance, and representatives from the Ohio and Columbus Chambers of Commerce as well as Verizon We will continue to report on the progress of this bill as it moves through the legislative process.

OML ATTENDS NATIONAL LEAGUE OF CITIES CONFERENCE IN WASHINGTON, D.C.

This week, the League's Executive Director, Kent Scarrett, and the League's Legal Counsel, Garry Hunter attended, the National League of Cities' 2018 Congressional City Conference in Washington, D.C. There, they were joined 80 municipal officials representing Ohio in order to jointly lobby Congress on behalf of Ohio's cities and villages, along with 2,300 other city leaders and delegates across the country. The conference's central theme was "Rebuild with Us", coordinating a united message from municipalities throughout the nation about the crucial importance of investing in and rebuilding America's infrastructure. This theme certainly echoed the message we hear from local leaders across the state: it is vital that we reinvest in Ohio's infrastructure.

Attendees also had the opportunity to attend general sessions and workshops, where discussions tackled topics such as data and technology, the opioid crisis, legislation and regulations, housing, safety practices and advocacy efforts. The conference also featured keynote speeches from figures like Ben Carson, the Secretary of the U.S. Department of Housing and Urban Development; Gale Brewer, Borough President from Manhattan, NY; and Mayor Bill de Blasio of New York City.

The League is grateful to the NLC for providing an opportunity for municipal leaders to discuss pressing local issues, hear from seasoned speakers and advocate on behalf of their city or village before Congress. NLC is an invaluable resource that allows municipal officials opportunities from networking and interfacing on best practices to advocating directly to members of Congress, and it is our hope many more local leaders will get involved this year. We want to thank each Ohio municipal leader who traveled to D.C. on behalf of their community. We hope to see you and many more local Ohio leaders at the conference next year!



We want to thank Cleveland council member and former NLC President Matt Zone and his team for their leadership and hard work to make the conference such a success.

COMMITTEE RECAP: HEARINGS FOR BILLS OF MUNICIPAL INTEREST

Here are the bills that impact municipalities that received committee hearings this week:

- **HB 488 - TAX LEVIES.** Sponsored by Rep. Hood (R - Ashville) and Rep. Becker (R - Union Township), modifies the information conveyed in election notices and ballot language for property tax levies. During its second hearing before the House Ways and Means Committee, it was announced that the bill would actually not be heard in committee that day. The League is still looking into this legislation.
- **HB 530 - LOCAL OFFICIALS/LODGING TAX.** Sponsored by Rep. Hambley (R - Brunswick) and Rep. Arndt (R - Port Clinton), this bill would authorize local elected officers that have levied a hotel lodging excise tax, or a designee of such officers to simultaneously hold the position of officer or member of the board of trustees of a convention and visitors' bureau without constituting incompatible offices. During its first hearing before the House State and Local Government Committee, the bills sponsors explained how allowing local elected officials to serve on boards of convention and visitors bureaus can help with local economic development efforts. The League is neutral on this legislation.
- **SB 252 - LOCAL OFFICIALS/LODGING TAX** Sponsored by Rep. Peterson (R - Sabina), this bill would authorize local elected officers that have levied a hotel lodging excise tax, or a designee of such officers to simultaneously hold the position of officer or member of the board of trustees of a convention and visitors' bureau without constituting incompatible offices. During its first hearing before the Senate Ways and Means Committee, Sen. Peterson explained the bill codifies

common practice in allowing "dual service." The League is neutral on this bill.

- **HB 484 - HEALTH DISTRICT CREDIT CARDS.** This bill, sponsored by Rep. Brenner (R - Powell), would authorize city and general health districts to use credit cards in accordance with prescribed requirements. During its second hearing before the House State and Local Government Committee, a representative from the Association of Ohio Health Commissioners said the bill recognizes the need to use a credit card to purchase goods or services from a supplier has become universal, due to the online nature of many transactions. She also spoke to a forthcoming amendment allowing health districts to call themselves any name that includes "public health" in the title for "public relations purposes." The League is neutral on this bill.
- **HB 382 - UNEMPLOYMENT COMPENSATION LAW.** Sponsored by Rep. Schuring (R - Canton), this bill would modify terms describing payments made under the Unemployment Compensation Law, increase the amount of wages subject to unemployment compensation premiums, require qualifying employees to make payments to the Unemployment Compensation Insurance Fund, allow the Director of Job and Family Services to adjust maximum weekly benefit amounts, reduce the maximum number of benefit weeks, and to make other changes to the Unemployment Compensation Law. During its seventeenth and eighteenth hearings before the House Government Accountability and Oversight Committee, no testimony was heard on this bill. The League is neutral on this legislation.
- **HJR 4 - UNEMPLOYMENT COMPENSATION BONDS.** Sponsored by Rep. Schuring (R - Canton), this joint resolution would enact Section 2t of Article VIII of the Constitution of the State of Ohio to allow the General Assembly to provide by law for the issuance of bonds to pay unemployment compensation benefits when the fund created for that purpose is or will be depleted or to repay outstanding advances made by the federal government to the unemployment compensation program. During its seventeenth and eighteenth hearings before the House Government Accountability and Oversight Committee, no testimony was heard on this bill. The League is neutral on this joint resolution.
- **HB 469 - MIXED-USE TAX CREDITS.** Also sponsored by Rep. Schuring (R - Canton), this bill would authorize a nonrefundable insurance company tax credit for contributions of capital to transformational mixed-use development projects. During its fourth hearing before the House Government Accountability and Oversight Committee, no testimony was given on this bill. This bill is an important tool for economic development and job creation for municipal downtowns, and the League is a strong supporter of this legislation. You can read Executive Director Kent Scarrett's proponent testimony, submitted in previous hearings, [HERE](#).

- **HB 529 - CAPITAL APPROPRIATIONS.** This bill, sponsored by Rep. Ryan (R - Newark), makes capital appropriations and changes to the law governing capital projects and makes re-appropriations for the biennium ending June 30, 2020. During its first hearing before the Senate Finance Committee, the committee heard testimony from the Buckeye Institute regarding their report criticizing several select projects slated to be funded by the bill. The bill was voted unanimously out of committee. The League is supportive of this legislation.

COMMITTEE SCHEDULE FOR THE WEEK OF MARCH 18, 2018

Tuesday, March 20, 2018

HOUSE FINANCE

Tue., Mar. 20, 2018, 10:00 AM, Hearing Room 313
Rep. Smith: 614-466-1366

- HB378**** OHIO BROADBAND DEVELOPMENT (SMITH R, CERA J) To create the Ohio Broadband Development Grant Program and to make an appropriation.
Eighth Hearing, All Testimony, AMENDMENTS/SUBSTITUTE BILL/POSSIBLE VOTE

SENATE JUDICIARY

Tue., Mar. 20, 2018, 10:15 AM, North Hearing Room
Sen. Bacon: 614-466-8064

- SB250**** CRITICAL INFRASTRUCTURE FACILITY TRESPASS (HOAGLAND F) To prohibit criminal mischief, criminal trespass, and aggravated trespass on a critical infrastructure facility, to impose fines for organizations that are complicit in those offenses, and to impose civil liability for damage caused by trespass on a critical infrastructure facility.

First Hearing, Sponsor Testimony

- HB276**** THREATENING UTILITY WORKERS (REZABEK J, GREENSPAN D) To expand the offense of aggravated menacing to prohibit threatening a utility worker with intent to obstruct the operation of a utility.

First Hearing, Sponsor Testimony

HOUSE ECONOMIC DEVELOPMENT, COMMERCE AND LABOR

Tue., Mar. 20, 2018, 1:30 PM, Hearing Room 113
Rep. Young: 614-644-6074

- HB164**** ROOFING CONTRACTORS LICENSURE (PATTON T) To require commercial roofing contractors to have a license.
Fourth Hearing, All Testimony

HOUSE STATE AND LOCAL GOVERNMENT

Tue., Mar. 20, 2018, 2:00 PM, Hearing Room 017
Rep. Anielski: 614-644-6041

- HB484**** HEALTH DISTRICTS-CREDIT CARDS (BRENNER A) To authorize city and general health districts to use credit cards in accordance with prescribed requirements.

Third Hearing, All Testimony

- HB530**** LOCAL OFFICIALS-INCOMPATIBLE OFFICES (HAMBLEY S, ARNDT S) To authorize local elected officers that have levied a hotel lodging excise tax, or a designee of such officers to

simultaneously hold the position of officer or member of the board of trustees of a convention and visitors' bureau without constituting incompatible offices.

Second Hearing, All Testimony

HB543** PROSECUTING ATTORNEY-REGIONAL AUTHORITY ADVISER (PERALES R, HAMBLEY S) To allow a county prosecuting attorney to enter into a contract with a regional airport authority, port authority, or regional planning commission to be its legal adviser.

First Hearing, Sponsor Testimony

Thursday, March 22, 2018

SENATE PUBLIC UTILITIES

Thu., Mar. 22, 2018, 9:00 AM, Senate Finance Hearing Room
Sen. Beagle: 614-466-6247

HB478** SMALL CELL WIRELESS (SMITH R, LATOURETTE S) To modify the law regarding wireless service and the placement of small cell wireless facilities in the public way.

Third Hearing, Opponent/Interested Party Testimony

CHECK OUR WEBSITE MONDAY FOR ANY CHANGES TO THE COMMITTEE SCHEDULE

Up Coming Meetings & Events

OML/OMAA Webinar Beyond Sexual Harassment	March 22, 2018 10:00 am ~ 11:00 am	<u>Registration Information</u>
Newly Elected Council Training Seminars	March 24th	<u>Registration Information</u>

[Ohio Municipal League](#)

Legislative Inquires:

[Kent Scarrett, Executive Director](#)

[Edward Albright, Deputy Director](#)

[Ashley Brewster, Director of Communications](#)

[Rachel Massoud, Legislative Advocate](#)

Website/Bulletin Issues:

[Zoë Wade, Office Manager](#)