

# RECORD OF ORDINANCES

Ordinance No. 03-14

Passed 1/21, 2014

AN ORDINANCE AUTHORIZING EXECUTION AND DELIVERY OF MEMBER COMMITMENT AGREEMENT AND OTHER DOCUMENTS IN CONNECTION WITH THE REFUNDING OF THE OUTSTANDING PRINCIPAL AMOUNT OF AMERICAN MUNICIPAL POWER-OHIO, INC'S. VILLAGE OF GENOA PROJECT ELECTRIC SYSTEM IMPROVEMENT BONDS, SERIES 2004, AND DECLARING AN EMERGENCY.

WHEREAS, on March 30, 1999 American Municipal Power, Inc., formerly known as American Municipal Power-Ohio, Inc. ("AMP") issued its bond anticipation notes, on behalf of the Village of Genoa (the "Village"), in the principal amount of \$1,400,000 (the "1999 Notes") for the purpose of financing the construction and improvement of substations which are used in the Village's electric system (the "1999 Project"), and the Village entered into a Loan Agreement (the "1999 Loan Agreement") with AMP and executed and delivered its promissory note in the amount of 1999 Notes to AMP, AND

WHEREAS, on October 12, 2000 AMP issued its additional bond anticipation notes, on behalf of the Village, in the principal amount of \$500,000 (the "2000 Notes") for the purpose of financing additional costs of the 1999 Project (the "2000 Project"), and the Village entered into a First Amendment to Loan Agreement (the "2000 Loan Agreement") with AMP and executed and delivered its promissory note in the amount of the 2000 Notes to AMP; and

WHEREAS, on October 12, 2001 AMP issues its additional bond anticipation notes, on behalf of the Village, in the principal amount of \$300,000 (the "2001 Notes") for the purpose of financing additional costs of the 1999 Project (the "2001 Project"), and the Village entered into a Second Amendment to Loan Agreement (the "2001 Loan Agreement") with AMP and executed and delivered its promissory note in the amount of the 2001 Notes to AMP; and

WHEREAS, on December 18, 2001 AMP issued its additional bond anticipation notes, on behalf of the Village in the principal amount of \$2,100,000 (the "Generation Notes") for the purpose of financing the cost of acquiring and installing generating equipment for use in its electric system (the "Generation Project"), and the Village entered into a Third Amendment to Loan Agreement (the "Generation Loan Agreement") with AMP and executed and delivered its promissory note in the amount of Generation Notes to AMP; and

WHEREAS, on February 11, 2004 AMP issued its additional bond anticipation notes, on behalf of the Village, in the principal amount of \$800,000 (the "2004 Notes") for the purpose of financing the cost of completing upgrades to its distribution system and completing the installation of its generating equipment (the "2004 Project"), and the Village entered into a Fourth Amendment to Loan Agreement (the "2004 Loan Agreement") with AMP and executed and delivered its promissory note in the amount of the 2004 Notes to AMP; and

WHEREAS, AMP subsequently renewed and combined the 1999 Notes, the 2000 Notes, the 2001 Notes, and Generation Notes into a single note issue; and

WHEREAS, the Village requested AMP to convert the previously combined notes and the 2004 Notes into an AMP bond issue in order to permanently finance the 1999 Project, the 2000 Project, the 2001 Project, the Generation Project, and the 2004 Project; and

WHEREAS, AMP assisted the Village in obtaining such financing by issuing its Village of Genoa Project Electric System Improvement Bonds, Series 2004, dated October 1, 2004 (the "2004 Bonds") in the aggregate principal amount of \$5,720,000, pursuant to a Trust Agreement dated as of October 1, 2004 (the "Trust Agreement") by and between AMP and U.S. Bank National Association, as trustee (the "Trustee") and the Village entered into an Amended and Restated Loan Agreement dated as of October 1, 2004 (the "2004 Loan Agreement") with AMP and executed delivered its promissory note in the amount of the 2004 Bonds to AMP; and

WHEREAS, the 2004 Bonds maturing on February 15, 2024 and February 15, 2029 in the aggregate principal amount of \$4,185,000 are subject to optional redemption, on and after February 15, 2014, in whole or in part at a redemption price of par, plus accrued interest to the date of redemption; and

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WHEREAS, AMP has offered to the Village that AMP will take out a loan under its Credit Agreement, dated as of January 10, 2012, as amended (the "Credit Agreement"), to provide up to \$4,185,000 to be used by AMP, together with the moneys to the credit of the Bond Fund and the Debt Service Reserve Fund, and any other funds available for the purpose, under the Trust Agreement, to pay the redemption price of, plus accrued interest on, the 2004 Bonds on the earliest practicable redemption date; and

WHEREAS, AMP has advised the Village that it is willing to take a loan under its Credit Agreement, dated as of January 10, 2012, as amended (the "Credit Agreement"), to provide up to \$4,185,000 to be used by AMP, together with the moneys to the credit of the Bond Fund and the Debt Service Reserve Fund, and any other funds available for the purpose, under the Trust Agreement, to pay the redemption price of, plus accrued interest on, the Bonds To Be Redeemed on the earliest practicable redemption date; and

WHEREAS, the Village has determined that it is in its best economic interests to request AMP to take a "Loan" (as defined in the Credit Agreement) and for AMP to apply the proceeds thereof to the payment of the redemption price of the 2004 bonds; and

WHEREAS, in order to accomplish this transaction, it is necessary to authorize the execution and delivery by the Village of various documents relating thereto;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF GENOA, OTTAWA COUNTY, OHIO:

SECTION 1. The Village hereby requests AMP to utilize the Credit Agreement to obtain a Loan in the amount of up to \$4,185,000, the proceeds of which shall be deposited with the Trustee and applied, together with the moneys to the credit of the Bond Fund and Debt Service Reserve Fund and any other funds available for the purpose under the Trust Agreement, to allow AMP to pay the redemption price of, plus accrued interest on, its 2004 Bonds on the earliest practicable redemption date. The Loan shall be transitional financing to a replacement bond issue, as may be necessary.

While it is assumed that AMP will utilize the Credit Agreement to provide the Loan, AMP, in its sole discretion, may utilize revenue bonds, bond anticipation notes, bank loans or other evidences of indebtedness, to finance the Loan on the most economically favorable terms available given prevailing market conditions at the time.

SECTION 2. That in order for the Village to provide funds to AMP sufficient for AMP to repay the Loan in accordance with the terms of the Credit Agreement, the Village shall enter into a Member Commitment Agreement, dated as of January 1, 2014 (the "Agreement") with AMP. The form of the Agreement is on file and is available for inspection in the office of the Fiscal Officer.

SECTION 3. The payments to be made by the Village pursuant to the Agreement shall be payable solely from the net revenues of the Village's Electric System, and shall be secured equally and ratably by a pledge of such net revenues. Nothing in the Agreement shall constitute a general obligation, debt or bonded indebtedness of the Village; neither the general resources of the Village shall be required to be used, nor the general credit of the Village pledged for the performance of any duty under the Agreement; and further, nothing therein gives AMP the right to have excises or taxes levied by the General Assembly, or by the State or the taxing authority of any other political subdivision, for the payment of any amounts owed under the Agreement, but the amount owed under the Agreement are payable from the net revenues as provided therein; provided, however, that nothing shall be deemed to prohibit the Village, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Agreement.

SECTION 4. That the Mayor is authorized to execute and deliver, on behalf of the Village, the Agreement substantially in the form of the Agreement on file in the office of the Fiscal Officer, with such changes as the Mayor and Fiscal Officer shall determine to be in the best interests of the Village. The execution of the Agreement by the Mayor shall be conclusive evidence of the approval of such documents.

Further, the Mayor, Fiscal Officer, and other appropriate Village officials are hereby authorized to execute and deliver such certificates, agreements and other documentation as they deem necessary and appropriate to conclude the transaction.

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SECTION 5. The Trust Agreement shall be defeased on the redemption date of the 2004 Bonds in accordance with the provisions of Section 6.03 (a) thereof, and AMP is requested to require the Trustee to turn over to AMP, for transfer to the Village, all cash and investments not required to effect the redemption of any pay accrued interest on the 2004 Bonds.

SECTION 6. It is hereby found and determined 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 including Section 121.22 of the Ohio Revised Code.

SECTION 7. This Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, safety and welfare of the inhabitants of the Village for the reason that the Agreement must be executed at the earliest possible date in order for AMP to call its 2004 Bonds for redemption on the earliest practicable redemption date; therefore, this Ordinance shall take effect and be in force from and immediately after its passage. of said Village, and shall be in full force from and immediately after its passage.

Vote to Suspend Rules: Yeas 6 Nays 0  
Vote on Emergency: Yeas 6 Nays 0

Passed: January 21, 2014 Yeas 6 Nays 0

ATTEST:

Chad C. Bunker  
Fiscal Officer

John C. Lewis  
President of Council

[Signature]  
Mayor

[Signature]  
Village Attorney

### FISCAL OFFICER'S CERTIFICATE AS TO PUBLICATION

This is to certify that publication of the foregoing was duly made as provided in Ordinance 52-07, adopted by the following method:

By posting certified copies thereof in the six (6) public places specified in Section 105.01 of the Codified Ordinances of the Village of Genoa, and by Ordinance 52-07, said posting having been accomplished on the following date 1/22, 2014.

Chad C. Bunker  
Fiscal Officer

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