

UNION TOWNSHIP BOARD OF TRUSTEES MEETING AGENDA

September 9, 2010 - 7:00 PM
Union Township Civic Center
4350 Aicholtz Road, Union Township, Ohio 45245
www.union-township.oh.us

CALL TO ORDER: Timothy Donnellon, Chair

PLEDGE OF ALLEGIANCE: Timothy Donnellon, Chair

ROLL CALL: Timothy Donnellon, Chair
Matthew Beamer, Vice-Chair
Robert McGee, Trustee

APPROVAL OF MINUTES

- 1) August 26, 2010 Meeting Minutes

CORRESPONDENCE

Ronald B. Campbell, Fiscal Officer

PROCLAMATIONS & SPECIAL PRESENTATIONS

Duke Retail Sales Presentation

Integrays Presentation

DEPARTMENT REPORTS

Department Heads will present their bi-monthly reports in the following order:

Fire & Emergency Medical Service – Stan Deimling, Chief

Police Department – Terry Zinser, Chief

Service Department – Matt Taylor, Director

Planning & Zoning – Cory Wright, Director

Information Technology – Chip Stewart, Director

Administration – Ken Geis, Township Administrator

PUBLIC HEARINGS

Union Township Zoning Case 9-10-O – Dean Goering Applicant
Focus Area Overlay Proposal – Dreamscapes Landscaping ODOT Remnant Parcel Use Request

OLD BUSINESS

NEW BUSINESS

A. Payment of Bills

Motion to pay outstanding bills as prepared by Ronald B. Campbell, Fiscal Officer.

B. Approval of Monthly Financial Report

Motion to approve monthly financial report as prepared by Ronald B. Campbell, Fiscal Officer.

C. Approval of Purchase Orders

Approve recommendation of Ken Geis, Township Administrator, for the approval of requested purchases exceeding \$1,500.00.

D. Establish Fall Junk Days for October 14th-16th (Thursday and Friday 7am-5pm and Saturday 8am-4pm)

E. Establish Trick or Treat Night.

F. Approval of Resolutions

Upon recommendation of Ken Geis, Township Administrator, adopt Resolution 2010-21, authorization to enter into an agreement with Duke Energy Retail Sales to provide competitive Retail Electric Service to the residents and businesses of Union Township.

Upon recommendation of Ken Geis, Township Administrator, adopt Resolution 2010-22, authorization to enter into an agreement with Integrys Energy services to provide stable price for natural gas with cost protection for the residents and businesses of Union Township.

COMMENTS FROM BOARD MEMBERS

PUBLIC COMMENTS

Purchase Order Approval – September 9, 2010

Requisition Number	Amount	Vendor	Comments
10-Admin-0059-A	\$12,500.00	Pitney Bowes Inc	Blanket Purchase Order for ADMIN Postage Meter refill for September-October 2010.
10-Cemetery-0261-A	\$2,935.20	Battelle Grocery & Catering	Lantern Lighting Ceremony Dinner which includes service for 450.
10-Fire-0158-A	\$10,000.00	Miami Valley International Truck Inc	Repair & Maintenance of Apparatus
10-ITech-0049-A	\$5,999.94	Time Warner Cable	Monthly Fiber Service
10-Police-0251-A	\$2,655.00	Cincinnati Bell Communications	Annual Maintenance for 911 Wireless Phase II Service 8/2010-7/2011
10-Police-0256-A	\$4,014.88	Cincinnati Bell	911 System monthly fee Sept/Oct
10-Service-0200-A	\$19,950.00	Houck Asphalt Maintenance	Two coat Sport Surface Restoration (Clepper Park) on the basketball courts.
10-Service-0202-A	\$24,989.00	Total Tennis Inc	Tennis court reconditioning (Veteran's Park)
10-Service-0203-A	\$2,169.45	Clermont County Water Resources	JEDD Water and Sewer
10-Service-0209-A	\$36,910.00	Walnut Grove Construction Inc	Playground Equipment including Rocky Mountain Climber and posts.
10-Service-0210-A	\$24,731.00	Walnut Grove Construction Inc	Playground Equipment: Relocate swing set, 15x15 Topper, wood chips, borders and installation of all play equipment, chips and border.

As of: September 9, 2010

**CONSERVATION PROGRAM SPONSORSHIP AGREEMENT
BETWEEN INTEGRYS ENERGY SERVICES - NATURAL GAS, LLC AND UNION TOWNSHIP**

This Conservation Program Sponsorship Agreement is entered into as of this ____ day of _____, 2010 ("Agreement"), by and between Union Township, a political subdivision located within Clermont County, in the State of Ohio, and Integrys Energy Services – Natural Gas, LLC ("Integrys"), a corporation with its principal place of business at 1716 Lawrence Drive, De Pere, Wisconsin 54115, hereinafter referred to individually as a ("Party") or collectively as the ("Parties").

WITNESSETH

WHEREAS, Integrys is a competitive retail natural gas supplier; and

WHEREAS, Union Township is a political subdivision of the State of Ohio interested in promoting [conservation and environmental stewardship] with its residents and businesses located within its jurisdictional boundaries; and

WHEREAS, Union Township, through action by its legislative authority, Board of Township Trustees, has adopted an ordinance or resolution to enter into this Agreement to promote [conservation and environmental stewardship] among its residences and small businesses; and

WHEREAS, the Parties decide to establish the rights and obligations of the Parties with respect to educating the residences and small businesses located in Union Township regarding the Conservation Program;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Union Township will establish (or has established) by resolution a Conservation Program for its residents and small businesses. Union Township will have discretion in the administration of the Conservation Program.

2. Integrys will establish a specific competitive retail natural gas choice offer for residents and small businesses located in Union Township. Integrys will have sole discretion over the administration of its competitive retail natural gas choice offering and the associated contracts with its customers, provided however (i) the Price offered will not exceed the weighted average price available to the participants of the governmental aggregation programs established by Integrys in the applicable utility service territory, and (ii) Integrys will contribute one dollar (\$1.00) to the Conservation Program for each customer in Union Township, Clermont County enrolled in the specific natural gas choice program, not to exceed \$16,000 in any one year. Integrys' contribution will be based on current enrollments ninety days after service arising out of the specific competitive retail natural gas choice offer begins ("Evaluation Date"). In addition Integrys will pay one dollar (\$1.00) for each year over year increase in the number of enrolled accounts during the term of this Agreement. The evaluation of year over year enrollments shall occur within thirty (30) days of the anniversary of the initial Evaluation Date. Payments for year over year enrollment increases shall be made within thirty days of the enrollment evaluation.

3. If requested, Union Township will communicate to others that Integrys is a participant in its Conservation Program. Union Township will from time to time provide Integrys with a list of residents to facilitate Integrys' communication about its sponsorship.

4. Integrys is permitted to communicate to its customers and prospective customers that it is a sponsor and participant in the Union Township Conservation Program and use the Union Township name and logo on its promotional material when describing its association with the Union Township Conservation Program.

5. Union Township has authority to establish such a Conservation Program and to enter into this Agreement with Integrys.

6. **IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER THIS CONTRACT FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER SUCH CLAIMS ARE BASED UPON BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE OF ANY DEGREE), STRICT LIABILITY, CONTRACT, OPERATION OF LAW OR OTHERWISE.**

7. This Agreement shall become effective on the first date written above ("Commencement Date") and shall remain in full force and effect until [date] (the "Renewal Date"), provided however the Agreement shall renew for successive one year terms, unless a Party provides written notice of termination to the other Party no less than ninety days prior to the Renewal Date, or any anniversary thereof.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective on the date first written above. The Parties agree that signatures transmitted by facsimile are acceptable and binding for the execution of this Conservation Program Participation Agreement.

Integrys Energy Services, Inc.:

Signed: _____

Name: _____

Title: _____

Date: _____

Union Township:

Signed: _____

Name: _____

Title: _____

Date: _____

Approved as to Form:

Date: _____

RETAIL NATURAL GAS PROGRAM AGREEMENT FOR UNION TOWNSHIP

Participation in the Retail Natural Gas Program Agreement for Union Township, Clermont County requires the consent of the account holder to switch its natural gas supplier to Seller. You, the account holder (also referred to as "Buyer") for the account referenced when consent is conveyed (the "Account") and Integrys Energy Services – Natural Gas, LLC ("Seller" or "Integrys") agree to the following terms and conditions (the "Agreement").

Integrys is a proud sponsor of the [] Fund established by Union Township, Clermont County and will contribute \$1.00 for each enrollment during 2010, and for year over year increases in enrollments in this Program for the term of Integrys' sponsorship.

1. This Agreement shall become binding on the date consent to join is conveyed (the "Effective Date"), however, the obligation of Seller to sell and Buyer to purchase natural gas is contingent upon: (a) successful enrollment by (the "Utility") and (b) the passage of the Rescission Period (defined below) without effective cancellation by Buyer.

Eligibility: To be eligible, (i) the Account must be within the jurisdictional boundaries of (located in County) and the Utility, may not have past due amounts owed to the Utility, and may not be under contract with another competitive supplier, and (ii) You may not be a mercantile customer, or a PIPP customer (Percentage of Income Payment Plan program customers).

Consent: Consent to switch natural gas suppliers can be conveyed through the website at www.integrysenergy.com/, or by calling

Enrollment: Successful enrollment by the Utility is dependent upon (i) the consent of Buyer (ii) the eligibility of Buyer as determined by the Utility including, but not limited to, past payment history, price availability based on the active rates provided by Seller to the Utility and historical annual usage, and (iii) the accuracy and completeness of the information submitted by Buyer when indicating consent.

Rescission Period: Upon enrollment of the Account, the Utility will send Buyer a letter confirming the transfer of service. Buyer may cancel its enrollment without penalty within seven (7) business days of the postmark date of that letter ("Rescission Period") by contacting the Utility in writing or by telephone as noted in that letter.

2. **Delivery Period:** Service shall begin on your first meter read occurring after the Utility confirms enrollment and shall remain in effect until your meter read date, which ends the Delivery Period. Prior to the end of the initial Delivery Period, Seller shall provide Buyer notice of any changes to the terms and conditions of this Agreement that apply to service during the next Delivery Period. If renewal is indicated in the expiration notice, service will renew at the terms stated in the renewal notice unless Buyer affirmatively terminates the Agreement upon its expiration as provided in the renewal notice.

3. **Supplier's and Utility's Role:** Seller agrees to sell to Buyer and deliver to the Utility, and Buyer agrees to purchase from Seller and receive from the Utility, Buyer's full requirements of natural gas for the Account. The Utility will deliver the natural gas to the Account and shall invoice and collect Seller's charges. Seller does not impose credit or deposit requirements. The Utility's billing and payment procedures shall apply in accordance with the applicable tariff, including but not limited to, the Utility's right to assess late payment fees and to disconnect gas service for past due charges. The Utility or Seller may terminate your service under this Agreement for non-payment with at least fourteen (14) days written notice. Seller may cause the Utility to correct previous invoices in the event of invoicing errors. Buyer should contact the Utility in the event of a natural gas emergency.

4. **Price:** Initially the Price will be the **Monthly Variable Rate**, which will be calculated based on a formula including a fixed Delivery Adder of per CCF and the Market Settlement price defined below. This rate will change each month based on the Market Settlement price. During the Delivery Period, Seller may provide notice that (i) the Price will be converted to a **Locked-In Price with Flex Down OpportunitySM** rate, (ii) what the Locked-in Price will be and the Capped Period, and (iii) how Buyer may terminate the Agreement without penalty prior to the effective date of the Price conversion, should Buyer decide not to take advantage of the Locked in Price with Flex Down OpportunitySM rate. The Price shall be converted as stated in the notice unless Buyer affirmatively terminates the Agreement as set forth in the notice.

The Price, whether the Monthly Variable Rate or the Locked-In Price With Flex Down OpportunitySM rate, includes all gas supply costs to the Utility and some pass-through charges from the Utility to the burnertip, including, but not limited to, btu factor and shrinkage. If the pass-through charges from the Utility increase, or if new charges are approved by a governmental agency with jurisdiction and passed through, or if existing tariff charges are administered differently and the pass-through charges from the Utility increase, the Price will increase accordingly. There are no recurring or nonrecurring supplier charges that are billed in addition to the Price. A switching fee may apply under the terms of the Utility's tariff. **Seller shall not charge You separately for any switching fees.** The Price does not include Taxes (as defined below) or Utility distribution charges.

Price Definitions: The "**Locked-In Price with Flex Down OpportunitySM**" rate is calculated based upon the sum of the weighted average Market prices when locked, plus the fixed Delivery Adder (which is fixed at per CCF for the Delivery Period) and associated fees for a specific period of time, which may be shorter than, but will not exceed the remainder of the Delivery Period ("**Capped Period**"). This calculation will set a price cap (or "**Locked-in Price**") for the Capped Period. Each month, Seller will compare the Locked-in Price to the then-current weighted average Market price and may adjust your price to account for a downward or upward pricing trend within the Capped Period. Your rate with Locked-In Price with Flex Down OpportunitySM will never exceed the Locked-in Price during the Capped Period. After the Capped Period, the Price may revert back to the Monthly Variable Rate or a new Locked-In Price with Flex Down OpportunitySM rate may be established. Any time a Locked-in Price with Flex Down OpportunitySM rate is established, Seller shall provide Buyer with written notice and the opportunity to terminate the Agreement without penalty.

The “**Market**” price is a current price for the relevant month’s natural gas futures contract that is traded on the New York Mercantile Exchange (“**NYMEX**”). The “**Market Settlement**” price is the Market price at settlement for the relevant month as determined by NYMEX.

5. **Taxes:** Buyer is responsible for all state and local sales, use, revenue, gross receipts, commercial activity, excise and/or ad valorem tax (collectively, “**Taxes**”) and shall reimburse Seller if Seller is required to remit such Taxes in connection with this Agreement. If You are exempt from Taxes, Seller will not collect the exempted tax beginning on the date we receive a tax-exempt certificate. Please send the most recent tax-exempt certificate to: Integrys Energy Services, Inc., 300 West Wilson Bridge Road, Suite 350, Worthington, OH 43085 or fax to 1-614-844-4306. Be sure to note the Union Township Program on the certificate.

6. **Customer Information:** Seller will not request a deposit or investigate your credit history to establish service. Seller shall not disclose Buyer’s social security number and/or account number(s) without Buyer’s affirmative written consent, except for the purpose of (i) Seller’s collections and credit reporting, (ii) participation in programs funded by the universal service fund, (iii) pursuant to section 4928.54 of the Revised Code, or (iv) assigning this Agreement to another certified retail natural gas provider. Upon request of Buyer, Seller will provide up to 24 months of Buyer’s payment history without charge.

7. **Termination; Remedies:** (a) This Agreement will automatically terminate or Buyer may terminate the Agreement without penalty if (i) the requested service location is not served by the Utility or (ii) Buyer or the Account moves outside the Utility service area or to an area not served by Seller.

(b) This Agreement will terminate upon written notice, but without penalty to Buyer if, (i) competitive retail natural gas service is no longer available due to a change in regulation, tariff, or law, or (ii) Seller defaults, which includes, an unexcused failure to deliver natural gas under the terms of this Agreement.

(c) An “**Early Termination**” shall occur if this Agreement is terminated (i) by Buyer to select a different Price after the Rescission Period but prior to the end of the Delivery Period, or for any other reason other than those listed in (a)-(b) above, or (ii) by Seller due to Buyer’s default, which includes a failure to pay or an unexcused failure to receive natural gas under the terms of this Agreement. In the event of an Early Termination, Seller may charge a termination fee of **\$25.00**. Buyer agrees to pay Seller for Early Termination within ten (10) calendar days of the invoice date to the payment address noted on the invoice, or as otherwise agreed upon by Buyer and Seller. No termination fee is due if Buyer is on the Monthly Variable Rate and selects a different Price offered by Seller, or if Buyer terminates the Agreement as set forth in a renewal notice or notice of a price conversion. If Buyer returns to the Utility after the Rescission Period, Buyer may not be served on the same rates, terms and conditions that apply to the Utility’s Standard Service Offer.

8. **Limitations:** ALL NATURAL GAS SOLD HEREUNDER IS PROVIDED “**AS IS**”, AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT WILL BUYER OR SELLER BE LIABLE UNDER THIS AGREEMENT, WHETHER IN AGREEMENT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.

9. **Force Majeure:** Except for Buyer’s obligation to pay Seller timely, Buyer and Seller will not be liable to the other for its failure to perform an obligation if such failure was caused by any event beyond the reasonable control of the non-performing party, that could not be remedied by the exercise of due diligence and that was not reasonably foreseeable, including without limitation, acts of God, interruption of utility service, terrorist acts or wars, force majeure events of the Utility. Seller may return Buyer to Utility service upon notification of a Force Majeure event preventing performance.

10. **Questions, Complaints and Concerns:** Buyer may contact Seller (i) by calling 24 hours per day, 7 days per week at _____, by visiting www.integrysenergy.com/; or (ii) by writing us at 300 West Wilson Bridge Rd Suite 350 Worthington, OH 43085. Seller will attempt to resolve all customer complaints in a timely manner and will respond to all complaints within 3 business days of receipt. If Buyer’s complaint is not resolved after Buyer has called Seller, or for general utility information, residential and business customers may contact the PUCO for assistance at 1-800-686-7826 (toll-free), or for TYY toll free at 1-800-686-1570, from 8:00am to 5:00pm weekdays, or visit the PUCO website at www.puco.ohio.gov or as otherwise specified by PUCO. Residential customers may also contact the Ohio Consumers’ Counsel (“**OCC**”) for assistance with complaints and utility issues at 1-877-742-5622 from 8:00am to 5:00pm weekdays, or visit www.pickocc.org.

11. **Miscellaneous:** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. Subject to regulatory approvals and notice from Seller, Seller may assign this Agreement without Buyer’s consent. Buyer may assign this Agreement only with Seller’s consent. This Agreement constitutes the entire agreement between Buyer and Seller, superseding all verbal and written understandings.

12. **Ecovations™ Renewable Gas:** Eight percent (8%) of Buyer’s annual usage will be (i) sourced with flowing renewable gas containing carbon dioxide allowances, (ii) offset by unbundled carbon dioxide allowances, or (iii) sourced and offset by a combination of (i) and (ii). No additional premium has been added to the Price for Ecovations™ Renewable Gas. Seller will retire the carbon dioxide allowances on behalf of the Buyer within ninety days following the close of a calendar year and only Buyer shall be entitled to make the environmental claims associated with its purchase of Ecovations™ Renewable Gas.



RESOLUTION 2010-21

The Board of Trustees of Union Township, Clermont County, Ohio met in regular session on September 9, 2010 with the following members present:

ROBERT McGEE

MATTHEW BEAMER

TIMOTHY DONNELLON

MR. McGEE moved for the adoption of the following resolution:

WHEREAS, the Union Township Board of Trustees is interested in arranging for competitive Retail Electric Service to the residents and businesses located within Union Township, Clermont County, Ohio; and

WHEREAS, the Union Township Board of Trustees believe that entering into a Retail Electric Service Program Agreement with Duke Energy Retail Sales will be beneficial to the residents and businesses of Union Township, Clermont County, Ohio, in that it will provide a stable price for Retail Electric Service with cost protection;

NOW, THEREFORE, BE IT RESOLVED that the Union Township Board of Trustees hereby authorizes Township Administrator, Ken Geis, to sign a Retail Electric Service and Supply Agreement with Duke Energy Retail Sales. A copy of said Agreement is attached hereto, and designated **Exhibit A**.

BE IT FURTHER RESOLVED that this resolution is the specific authority granted to the Board of Trustees through the status as a Limited Home Rule Township.

BE IT FURTHER RESOLVED that this Board upon majority vote does hereby dispense with the requirement that this resolution be read on two separate days, and hereby authorizes the adoption of this resolution upon its first reading.

MR. BEAMER seconded the motion, and upon roll call, the vote was as follows:

MR. McGEE - YEA

MR. BEAMER – YEA

MR. DONNELLON – YEA

ATTEST:

Ronald B. Campbell, Fiscal Officer

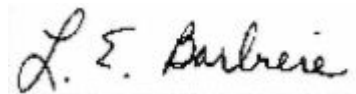
Date

I, Ronald B. Campbell, Fiscal Officer of Union Township, hereby certify, as official custodian of the records of Union Township, Clermont County, Ohio that the foregoing is taken and copied from the Record of Proceedings of Union Township and that the same is a true and accurate copy of the original on file in the township hall at **4350 Aicholtz Road, Union Township, Ohio 45245**

Ronald B. Campbell, Fiscal Officer

Date _____

Approved as to form:



Lawrence E. Barbieri
Union Township Law Director

RESOLUTION 2010-22

The Board of Trustees of Union Township, Clermont County, Ohio met in regular session on September 9, 2010 with the following members present:

ROBERT McGEE

MATTHEW BEAMER

TIMOTHY DONNELLON

MR. BEAMER moved for the adoption of the following resolution:

WHEREAS, the Union Township Board of Trustees is interested in arranging for competitive retail natural gas service to the residents and businesses located within Union Township, Clermont County, Ohio; and

WHEREAS, Ohio Revised Code §4929.27 authorizes the Union Township Board of Trustees to adopt a Resolution to enter into an agreement with a natural gas supplier to raise awareness of natural gas alternatives available to the residents and small businesses located in Union Township, Clermont County, Ohio; and

WHEREAS, the Union Township Board of Trustees believe that entering into a Natural Gas Supply Program Agreement with Integrys Energy Services, Inc. will be beneficial to the residents and businesses of Union Township, Clermont County, Ohio, in that it will provide a stable price for natural gas with cost protection;

NOW, THEREFORE, BE IT RESOLVED that the Union Township Board of Trustees hereby authorizes Township Administrator, Ken Geis, to sign a Natural Gas Endorsement and Supply Agreement with Integrys Energy Services, Inc. A copy of said Agreement is attached hereto, and designated **Exhibit A**.

BE IT FURTHER RESOLVED that this resolution is the subject of the general authority granted to the Board of Trustees through the Ohio Revised Code and not the specific authority granted to the Board of Trustees through the status as a Limited Home Rule Township.

BE IT FURTHER RESOLVED that this Board upon majority vote does hereby dispense with the requirement that this resolution be read on two separate days, and hereby authorizes the adoption of this resolution upon its first reading.

MR. McGEE seconded the motion, and upon roll call, the vote was as follows:

MR. McGEE - YEA

MR. BEAMER – YEA

MR. DONNELLON – YEA

ATTEST:

Ronald B. Campbell, Fiscal Officer

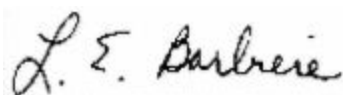
Date

I, Ronald B. Campbell, Fiscal Officer of Union Township, hereby certify, as official custodian of the records of Union Township, Clermont County, Ohio that the foregoing is taken and copied from the Record of Proceedings of Union Township and that the same is a true and accurate copy of the original on file in the township hall at **4350 Aicholtz Road, Union Township, Ohio 45245**

Ronald B. Campbell, Fiscal Officer

Date _____

Approved as to form:



Lawrence E. Barbieri
Union Township Law Director

Memorandum of Understanding (MOU)

Between Duke Energy Retail Sales and Union Township, Clermont County

This Memorandum of Understanding (the "MOU") is entered into on _____, 2010, between Duke Energy Retail Sales, LLC ("DERS") a Delaware limited liability company, and Union Township, Clermont County ("Community") (each a "Party" and collectively the "Parties") and shall continue through December 31, 2011.

DERS has agreed to make available to Community residents and small businesses (those using less than 700,000 KWh annually) that are approved to participate in the Duke Energy-Ohio ("Utility") Choice Program ("Eligible Customers"), competitive pricing for competitive retail electric service in return for the Community's endorsement of the program.

The Community agrees to endorse DERS as the Preferred Provider for Electric Supply Service during the term of this Agreement and the Community agrees that it will not endorse any other providers of competitive retail electric service during the term of this MOU.

The Community and DERS shall cooperate in disseminating mutually agreed-upon information to all Eligible Customers concerning the DERS Program and the Community's endorsement of the DERS Program. All costs associated with advertising and promotional materials related to the DERS Program will be the responsibility of DERS.

Upon mutual agreement, the Parties may utilize Community resources for advertising, promotion and consumer communications of the Community's endorsement of DERS as sole preferred competitive retail electric supplier. Any use of the Community's name and/or official seal by DERS shall be only with the express approval of the Community. Such utilization will not result in an incremental cost to the Community.

As a part of its promotional and advertising materials, DERS agrees to provide Eligible Customers with a toll-free number to call for further information about the DERS Program. DERS agrees to have trained staff available to answer questions regarding the DERS Program during normal business hours. All emergency, outage or other disruption concerns should continue to be directed to the Utility.

DERS will implement the enrollment process and will develop and mail all program announcements and enrollment materials at its expense. Eligible Customers will be encouraged to sign-up by mail, by website at www.Duke-Energy.com/DERS, or by telephone by calling a DERS customer service representative. DERS shall contract directly with Eligible Customers who accept the DERS Program for the endorsement term.

The Community represents and warrants that this MOU does not constitute any kind of investment by the Community that is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which the Community (or any of its officials in their respective capacities as such) or its property is subject.

Except to the extent that the release of such information is done in compliance with Public Records law or as otherwise required by law, each Party agrees, for itself and its directors, officers, employees, members, advisors (including financial and legal advisors) and agents, to keep confidential all Confidential Information as defined in this Agreement provided hereunder and to use the Confidential Information solely for purposes related to the DERS Program.

This MOU does not create or establish a joint venture, partnership or any other type of business organization between the Parties and neither Party shall make any representation to the contrary to any third party.

The Utility Choice Program is subject to the ongoing jurisdiction of the Public Utilities Commission of Ohio (the "Commission"). If the Commission cancels the Utility Choice Program, this MOU is rendered void with no penalty to either Party. It is agreed that this MOU shall be governed by the laws of the State of Ohio.

Execution of MOU

The Parties acknowledge their agreement to this MOU by their signatures below.

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____