

Resolution 2022-R-32 Exhibit A

MASTER AGREEMENT TO PROVIDE COMPETITIVE RETAIL NATURAL GAS  
SERVICE TO A GOVERNMENTAL AGGREGATOR

**BY AND BETWEEN THE CITY OF BELLBROOK AND  
INTERSTATE GAS SUPPLY, INC.**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between the City of Bellbrook, Ohio (“Aggregator”) and Interstate Gas Supply, Inc. (“Supplier” or “IGS”), individually “Party” and collectively “Parties”, both acting by and through properly authorized officials.

**RECITALS**

1. The Aggregator has enacted legislation to establish an “opt-out” natural gas aggregation program (the “Natural Gas Aggregation Program” or the “Program”) pursuant to Ohio Revised Code (ORC) Section 4929.26, for the residents and certain businesses in the Buying Group, defined below, and for that purpose, to take greater control over natural gas supply purchasing decisions for the Aggregator and its qualifying residents and businesses, with the desire to take advantage of the collective purchasing power of the Aggregator for benefit of the Buying Group.

2. The required ballot question passed on May 6, 2003 by a sufficient margin, enacting the Program for the Aggregator and its qualifying residents, for an automatic aggregation program. Automatic aggregation, subject to the opt-out process as detailed in the Ohio Revised and Administrative Codes, will include members of the Buying Group who are currently supplied by Centerpoint Energy (“Utility” or “LDC”) In addition, it is the desire of the Aggregator for currently ineligible customers to enroll through an endorsement program from time to time as agreed to by Supplier in Supplier’s sole discretion. The enacted legislation authorizes the Aggregator, or its designated representative, to direct the procurement of natural gas supply with a certified competitive retail natural gas supplier through the Program.

3. The Aggregator is certified with the Public Utilities Commission of Ohio (“PUCO”) as a Governmental Aggregator. The Aggregator has also retained the consulting services of a PUCO certified natural gas broker and aggregator to assist in managing this Program (the “Consultant” as referenced in Section 11.7(B), which may be amended from time to time upon receipt of written notice by IGS).

4. Subsequent to community approval of the Program, Aggregator sought proposals for the supply of retail natural gas service to the members of its Governmental Aggregation Program.

5. IGS has been certified by the PUCO as a Competitive Retail Natural Gas Services (“CRNGS”) supplier.

6. The Aggregator has determined that IGS best meets the needs of the Aggregator and its residents and has selected Interstate Gas Supply, Inc. as the exclusive supplier of natural gas to the Aggregator Program for an initial period beginning with the commencement of the Program through the November 2025 customer billing cycle, which includes an opportunity for IGS to continue beyond said period, as further detailed herein.

7. The Buying Group consists of approximately 1,500 residential and non-mercantile commercial

natural gas accounts. The “Buying Group” shall consist of all retail natural gas loads, except mercantile customers as defined in ORC Section 4929.01(L), that are located within the Aggregator and for which there is a choice of supplier of that service.

8. Supplier is familiar with government aggregations and has relayed to Aggregator that there are significant time constraints and limitations inherent with the opt-out process, and as such, from time to time it will be necessary to move quickly to secure the best prices for the Aggregator’s Buying Group.

NOW THEREFORE, in consideration of the mutual promises, covenants, conditions and terms to be kept and performed and the aforementioned recitals, which are incorporated herein by reference, the Parties agree as follows:

## **SECTION 1 GENERAL PROVISIONS**

### **1.1 Governmental Aggregator**

Aggregator is duly certified by the Public Utilities Commission of Ohio (“PUCO”) to provide natural gas aggregation services to its residents and accordingly, has the authority to designate, and does designate, Supplier, as its natural gas supplier and agent for procurement of natural gas supplies for Aggregator’s Buying Group. The Aggregator shall maintain its certification at all times through the term of this Agreement and any extension(s). IGS shall be the sole and exclusive provider of retail natural gas supply services for all the customers of the Buying Group who do not opt-out of the Program.

Aggregator does not assume the credit risk for any non-payment on behalf of any Buying Group member in its Aggregation Program.

### **1.2 Supplier**

Supplier is duly certified by the PUCO, and as such is authorized to provide competitive retail natural gas supply services to serve the Aggregator’s residential and non-mercantile commercial customers who do not opt out of its Program.

Supplier shall be acting as an independent contractor to the Aggregator, and shall not be deemed an employee or representative of the Aggregator.

### **1.3 Consumer**

The end users of Supplier’s natural gas supply services are the eligible residential and non-mercantile commercial customers in Aggregator’s political boundaries that do not opt-out of the program (“Consumer” or “Customer”). On behalf of Consumer, Aggregator reserves the right to approve Supplier’s Terms and Conditions for Supplier’s agreement with the Consumer.

### **1.4 Utility**

For purposes of this Agreement, Centerpoint Energy (“LDC”) shall be the natural gas distribution company and will provide local distribution services for all commodity supplied under this Agreement, and may be referred to as “LDC”, “LDC” or “Utility”.

## **SECTION 2           SCOPE OF WORK**

Supplier will undertake, perform and complete the services described below as well as those identified throughout this Agreement.

2.1     Supplier is responsible for the costs of obtaining the eligible customer list from the LDC and/or from any other resource they deem useful in creation of an accurate eligible customer list. Aggregator will share their resources to help mitigate the cost of assembling and verifying this list and will request the eligible customer list from LDC. It is the joint responsibility of the Aggregator and Supplier to approve the list to be used in any opt-out or endorsement program for the Aggregator. Upon notification and request to Supplier by a Customer who was eligible at the time of the initial opt-out notification and who remains eligible, Supplier shall enroll any such Customer wishing to join the Program. If an ineligible Customer receives an opt-out notice and is enrolled in the Program, upon knowledge of or notice to Supplier, Supplier shall take immediate steps to return Customer to LDC for service. Supplier will also be responsible to reimburse any switching fee and negative differential charges resulting from the improper switch, if notified by a Customer with a legitimate grievance.

2.2     Supplier shall perform and Aggregator will assist in the necessary list cleansing to ensure that only those customers who are eligible to participate are included on the list, to the best of their abilities. Supplier and Aggregator acknowledge that the list acquired from the Utility is represented by the Utility to be a list properly cleansed to include only those Customers that are eligible for the Government Aggregation as described in Ohio Administrative Code (OAC) Section 4901:1-29-13(C). To the extent the Utility fails to provide such a list, the Parties hereto shall hold each other harmless from any claim by the other resulting from such failure by the Utility.

2.3     Supplier shall print and mail opt-out notice packets to Customers that appear on the cleansed list. The packet shall contain an opt-out notice scripted by the Aggregator, a Terms and Conditions page outlining Consumer contract provisions, scripted by Supplier and approved by Aggregator, and may also include other information as agreed upon by Aggregator and Supplier. Supplier shall bear the costs associated with preparing, printing and mailing the opt-out notice packets.

2.4     Supplier shall receive and organize the opt-out responses and prepare a final listing of those Customers to be enrolled in the program. Supplier will also handle the information sharing/verification process with LDC for the transfer of accounts.

2.5     Supplier will utilize its customer call center resources to handle customer calls and concerns. Supplier maintains a toll-free telephone number that will be provided in all written correspondences with Customers, as well as the IGS website, that can be used by Customers to answer frequently asked questions. IGS understands that Aggregator is not equipped to handle large volumes of Customer calls and will be dependent on Supplier for this function. Aggregator will remain available to answer questions regarding customer inquiries as needed by IGS.

2.6     Once the timing is finalized between the Aggregator and IGS, IGS will conduct an initial opt-out and, thereafter, may also conduct subsequent opt-outs at various times, but no less often than once every two years, throughout the remaining term of this Agreement or any renewal thereof, as agreed upon by Supplier and Aggregator ("Interim Opt-outs"). The purpose of the Interim Opt-outs is to provide an opportunity for newly eligible opt-out Customers to take advantage of the Program. Such Interim Opt-outs will occur at times mutually agreed upon by Aggregator and Supplier. All opt-out notices will be conducted in the same manner as the initial opt-out, except for any price notifications

may be provided in an expedited fashion, as long as a full opt-out notice has been provided within the term of this Agreement.

2.7 Notwithstanding anything to the contrary herein, IGS agrees that, upon notification by former customer of the Buying Group and once provided with appropriate documentation, IGS shall re-enroll any Customer who is in the Program that moves to a new location within the Aggregator and within the LDC's service territory back into the Program, if eligible. Appropriate documentation shall include a signed agreement, telephone verification of enrollment or internet enrollment into the Program. The price, terms and conditions, once re-enrolled shall continue for the remainder of the Customer's initial term at the customer's prior address, although in no event shall the term exceed the term of this Agreement. Any new residential or non-mercantile commercial entrant into the Aggregator, within the LDC service territory that moves into any facility existing at the time of execution of this Agreement, shall be enrolled in the Program in IGS' sole discretion. Newly constructed facilities that are eligible will be permitted to enroll in the Program during Interim Opt-out notifications, and may, in IGS' sole discretion, be permitted to enroll in the Program from time to time.

2.8 If the LDC charges a switching fee for all Customers choosing a new supplier under the Choice program, IGS agrees to pay this fee.

2.9 Supplier's arrangements regarding natural gas supply shall comply with the LDC Natural Gas Choice Program in the state of Ohio. IGS will supply and manage deliveries to meet 100 percent of the Buying Group's natural gas requirements. Pricing shall not include LDC charges, fees and expenses or taxes.

2.10 In the event the Public Utility Commission of Ohio ("PUCO") requires information or documents regarding the Aggregation, Supplier agrees to assist in compiling such information, for all information in the possession or control of Supplier.

### **SECTION 3 TIME OF PERFORMANCE AND TERM OF AGREEMENT**

3.1 Supplier shall begin the flow of natural gas to participating Consumers at a mutually agreed upon time, after proper opt-out notifications are provided by IGS to eligible Customers. This Agreement and IGS' obligations under the Program shall begin with the commencement of the Program shall terminate after the November 2025 customer billing cycle ("Initial Term"), unless extended by mutual written agreement of both Aggregator and Supplier.

3.2 In the event of termination of this Agreement, should the Program continue with another supplier, IGS shall cooperate with Aggregator and new supplier to ensure a seamless transition of the Program in a timely manner. This would include providing a list of Customers, who per IGS' records are participating in the Program at the time such Aggregator request is made.

3.3 Should this Agreement terminate and a new supplier is not chosen, IGS will take all actions reasonably necessary to return any opt-out Program Customers to the LDC upon expiration of the Program term, as elsewhere defined herein.

### **SECTION 4 SALE AND PURCHASE**

4.1 Supplier shall deliver and sell natural gas supply to Customers at the price or pricing structure agreed to under Section 5 of this Agreement. Such supplies shall follow LDC and PUCO rules and

guidelines associated with Customer Choice natural gas supply. Customers shall purchase natural gas supply as indicated at the Price set forth in this Agreement. Supplier shall invoice Customers through LDC. All payments for natural gas delivered under this Agreement shall come from LDC. Aggregator takes no responsibility for payment hereunder for any amounts owed by LDC or Customers to Supplier.

4.2 Aggregator acknowledges that a Buying Group member's cost of natural gas pursuant to this Agreement may change from time to time and that certain Buying Group members may prefer pricing structures other than that described herein. Notwithstanding the provisions of Exhibit A, Supplier, in its sole discretion, may from time to time and independent of the Program, offer to Buying Group members products based on other pricing options, including but not limited to fixed price/fixed term offers.

## **SECTION 5 PRICE**

5.1 Supplier's monthly charges shall appear on the LDC invoice and shall be for all natural gas supplied to Buying Group members. The price of natural gas supply pursuant to this Agreement is described in Exhibit A, attached hereto and incorporated herein by reference.

## **SECTION 6 DELIVERIES**

6.1 Natural gas supply deliveries by Supplier pursuant to this Agreement shall be made to the LDC Aggregator Gate ("Point of Delivery"). The sources of supply and transmission shall be within Supplier's sole discretion.

## **SECTION 7 BILLING AND PAYMENT**

Supplier shall delegate the billing obligations to LDC.

## **SECTION 8 NON-PERFORMANCE/TERMINATION**

### **8.1 Non-Performance**

If Supplier fails to meet its obligations to deliver natural gas under this Agreement, and its failure is not excused by any provision under this Agreement, then Supplier shall reimburse Customer for the difference between Supplier's Price as defined in Section 5.1 of this Agreement and the price that customer pays the LDC for replacement natural gas supply as necessary to meet Customers' needs due to Supplier's failure to perform.

### **8.2 Termination**

A party may terminate this Agreement prior to its natural expiration for a material breach of any of the terms contained herein, or in accordance with the following regulatory contingencies ("Regulatory Event"):

A. **Illegality.** If, due to the adoption of, or change in, any applicable law, or in the interpretation of any applicable law by any judicial or governmental authority, it becomes unlawful to perform any obligation under this Agreement or its Attachments.

B. **Adverse Government Action.** If any regulatory agency or court having jurisdiction over this Master Agreement or services rendered pursuant to this Agreement i) requires a material

change to the terms of the Master Agreement that materially, adversely affects a Party, or ii) adversely and materially impacts a Party's ability to perform or otherwise provide the services described herein.

Upon the occurrence of a Regulatory Event, the adversely affected Party shall notify the other Party that such an event has occurred. The Parties shall attempt to agree to an amendment to remedy the effects of the event. If no such agreement is reached then either party may terminate this Agreement by 30-day written notice and Supplier will take all actions necessary to return all Program Customers back to LDC and will send all Customers in Aggregator's program an end-of-service notification.

## **SECTION 9 FORCE MAJEURE**

9.1 Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of primary Firm transportation and/or storage by Transporters where such interruption and/or curtailment directly affects gas deliveries under this Agreement; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections, terrorist acts or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Supplier and Aggregator shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

9.2 Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (ii) economic hardship, to include, without limitation, Supplier's ability to sell natural gas at a higher or more advantageous price than the Contract Price, Aggregator's ability to purchase natural gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Agreement.

The party whose performance is prevented by Force Majeure must provide notice to the other party. Initial notice may be given orally; however, written notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. The claiming Party shall exercise due diligence to remove the inability to perform as soon as reasonably possible, if possible. Upon providing written notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of natural gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

## **SECTION 10 APPLICABLE LAW**

10.1 This Agreement and all provisions herein will be interpreted under Ohio laws. Any and all litigation between Supplier and Aggregator related to this Agreement shall be brought in either a state or federal court located within the State of Ohio.

## **SECTION 11 MISCELLANEOUS**

11.1 If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement.

11.2 No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

11.3 This Agreement sets forth all understandings between the Parties respecting each transaction subject hereto, and any prior agreements, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Agreement and any effective transaction(s). This Agreement may be amended only in writing, executed by both Parties.

11.4 Aggregator and Supplier each represent and warrant that they have full and complete authority to enter into and perform this Agreement. Each person who executes this Agreement on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

11.5 Neither party may assign or transfer rights and obligations under this Agreement without the written consent of the other party. Such consent may not be unreasonably withheld. Notwithstanding the foregoing, Supplier may assign this Agreement in connection with the sale of all or substantially all of Supplier's assets. If this occurs, Supplier shall provide Aggregator with five (5) business day's notice.

11.6 Other than those communications described in Section 2.3 herein, all planned communications disseminated to the public by either Party, including but not necessarily limited to press releases, shall be subject to review and approval by the other Party prior to such dissemination.

11.7 Any notices, requests or demands regarding the services provided under this Agreement shall be sent to the following Parties:

- A. AGGREGATOR:
- B. CONSULTANT: Buckeye Energy Brokers, Inc.  
66 East Mill Street  
Akron, Ohio 44308  
Ph: 330-730-4338  
Email: bellish@buckeyeenergybrokers.com
- C. SUPPLIER: Doug Austin  
Interstate Gas Supply, Inc.  
6100 Emerald Parkway  
Columbus, Ohio 43016  
Ph: 614-659-5000  
Fax: 614-659-5125  
Email: daustin@igsenergy.com

IN WITNESS WHEREOF, AGGREGATOR AND SUPPLIER have caused this Agreement to be executed as of the date first mentioned above.

Supplier: Interstate Gas Supply, Inc.

By: \_\_\_\_\_  
Name/Title: Yoni Zofan, Vice President, Sales Optimization

Aggregator: City of Bellbrook

By: \_\_\_\_\_  
Name/Title:

# EXHIBIT A



## Price:

Supplier's monthly charges shall be determined by the New York Mercantile Exchange (NYMEX) price for gas multiplied by the applicable Centerpoint Energy BTU conversion rate for that month plus \$XXX per hundred cubic feet (Ccf). The Consultant, acting on behalf of the Municipality, has the right to determine the NYMEX price by directing IGS to purchase ("Trigger") actively trading NYMEX futures contracts for one or more consecutive months at any time with the exception of the prompt NYMEX trading month, which Municipality acknowledges will be Triggered before or at the NYMEX close on the 15<sup>th</sup> day of the then-current month (If the 15<sup>th</sup> day of the month falls on a holiday or a weekend, then it would be the next business day). "For example, unless Triggered otherwise, the price to appear on the Customer invoice from Centerpoint Energy for April would be the closing NYMEX price of gas on March 15<sup>th</sup> multiplied by the applicable Centerpoint Energy BTU conversion rate for April plus \$XXX per Ccf. Any and all Supplier charges for BTU conversion, shrinkage, etc., are included in the calculation of the NYMEX price. In order to Trigger actively trading Nymex future contracts, Consultant must contact IGS in writing (which can be via e-mail or fax) and direct IGS to execute a NYMEX futures purchase. Upon receiving such directive, IGS shall act upon such directive in what would be considered timely according to industry standards. All Parties acknowledge that the execution of a NYMEX futures purchase becomes a final purchase only upon IGS sending to Consultant an e-mail or fax confirmation of such Trigger directive having been completed. The e-mail or fax confirmation may be in a form of a spreadsheet, which includes all purchases (current and historical), as of the time of the confirmation.