

RESOLUTION NO.: 4 -2022
INTRODUCED BY: Mayor Thomas

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT WITH BUCKEYE ENERGY BROKERS, INC. FOR ELECTRIC
ENERGY CONSULTING SERVICES.

WHEREAS, the City of Richmond Heights desires to engage Buckeye Energy Brokers, Inc. to render certain consulting services with regard to electric energy related matters within the City;

WHEREAS, Buckeye Energy Brokers, Inc. is willing to provide said services for the consideration and upon the terms and conditions of an agreement, substantially similar to the one attached hereto as Exhibit A;

WHEREAS, this Council has determined by reviewing all pertinent information that it is necessary and in the best interest of the City to engage Buckeye Energy Brokers, Inc. as to electric energy consulting services matters within the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, Cuyahoga County, Ohio, that:

Section 1: The Mayor is authorized to execute an agreement with Buckeye Energy Brokers, Inc. for electric energy consulting services, in a form substantially similar to the agreement attached hereto as Exhibit "A."

Section 2: The Mayor and the Director of Finance are authorized to do all things necessary to effectuate the execution and implementation of said agreement.

Section 3: The aforesaid recitals are rendered to be the findings of this Council and are hereby incorporated into this Resolution.

Section 4: To the extent not already done so, the funds required for the payment of the obligations incurred are hereby appropriated for the purposes described in this Resolution.

Section 5: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution 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 6: This Resolution shall take effect and be in force at the earliest time permitted by law.

PASSED: January 11, 2022




Kim A. Thomas, Mayor

APPROVED: January 11, 2022

ATTEST: Betsy Traben

Betsy Traben
Clerk of Council



Bobby Jordan
President of Council

EXHIBIT A



**AGREEMENT FOR
ELECTRIC AGGREGATION SERVICES**

This Agreement ("Agreement") is made and entered into as of the last date written below, ("Commencement Date"), by and between **Buckeye Energy Brokers** (hereafter referred to as "Broker") and City of Richmond Heights, (hereafter referred to as "Client").

WHEREAS, Client is interested in reducing its overall energy costs by opt-out aggregation and aggregating its government owned electric accounts; and

WHEREAS, Broker is certified by the Public Utilities Commission of Ohio and offers energy brokerage and electric aggregation services ("Services") that may reduce the cost per energy unit consumed; and

WHEREAS, Client hereby agrees to utilize Broker as an exclusive agent and grants exclusive rights to perform such Services, as described in and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein contained, the parties hereto agree as follows:

1.0 Particulars of Service.

- 1.1 Broker shall provide energy related Services, including but not limited to the following:
- 1.1.1 Design Opt-Out Notification Forms and ballot legislation
 - 1.1.2 Attend two public hearings, upon request
 - 1.1.3 Load data collection and verification
 - 1.1.4 Energy savings estimates
 - 1.1.5 Energy buying and regulatory consultation
 - 1.1.6 Write customized Request for Proposals (RFP)
 - 1.1.7 All contact with potential energy suppliers
 - 1.1.8 Release all necessary client information to switch energy suppliers
 - 1.1.9 Pre-qualify any energy suppliers wishing to bid on the RFP
 - 1.1.10 Contract negotiation and closing with selected supplier
 - 1.1.11 File required PUCO reports and monitor energy cost savings with quarterly reports.
- 1.2 Broker will provide these Services in the following area(s) and/or account number(s):
_____ City of Richmond Heights and city owned electric accounts _____.

2.0 Compensation.

- 2.1 An administrative fee of \$.0005/kWh consumed in the Client's Area payable by the selected supplier for the length of the Service Agreement. Client agrees that this fee be written in the Request For Proposal for electric generation service. Only suppliers agreeing to the administrative fee would be eligible to bid.

3.0 Independent Agent.

- 3.1. Broker shall, at all times, during the performance of the Services be an independent agent. The parties shall not have the authority to bind, represent or commit the other as a result of this Agreement.
- 3.2. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, or employee-employer relationship between the parties for any purpose and Broker agrees to indemnify and hold harmless Client from and against any and all liability, costs, damages, expenses, fees, fines or penalties in connection with Broker employee or Broker contractor or agent claims of benefits, withholding obligations, payroll taxes, workers' compensation and occupational illness.

4.0 Term.

- 4.1. This Agreement shall be effective upon execution by both parties for power flow starting May 2022, and shall remain in effect for four years or until the end of the Master Service Agreement with the selected supplier which ever comes later.
- 4.2. Unless either party has requested to terminate this agreement at least six months prior to expiration, it shall renew for subsequent one year terms and a request for proposal will be sent to potential suppliers.
- 4.3. Client assumes all obligations to arrange for its electric generation service upon termination of this Agreement.

5.0 Limitation of Liability.

- 5.1. Neither Party shall be liable to the other for incidental, consequential, punitive, exemplary or indirect damages, lost profits or other business interruption damages, in tort, contract or otherwise.

- 6.0 **Force Majeure.** Neither party shall be liable for any delays or failures in performance due to circumstances beyond their respective controls.

- 7.0 **Confidentiality.** Except for matters of public record, information already within the other party's possession prior to entering into this Agreement, and except to the extent required (through deposition, interrogatory, request for production, subpoena, civil investigative demand or similar process) by a court order, Client agrees to keep confidential all information, including pricing and any data collected hereunder, unless

expressly agreed to in writing by Client and Broker. In the event that Client becomes required, in the manner specified above, to disclose any confidential information, Client shall provide prompt written notice to Broker so that Broker may timely seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, Client agrees (i) to furnish only that portion of the confidential information that is required to be furnished and (ii) to exercise reasonable commercial efforts to obtain assurance that confidential treatment will be accorded such confidential treatment.

8.0 Compliance with Laws, Permits, and License Requirements.

Broker shall, at its sole cost and expense, comply with all federal, state, and local laws applicable to its work and shall procure all applicable licenses and permits necessary for the fulfillment of its obligations under this Agreement.

9.0 Assignment. Client and Broker shall not assign or transfer, in whole or in part, this Agreement or any rights or obligations hereunder without the prior written consent of the other party, such consent not to be unreasonably withheld. All of the covenants, conditions and obligations of this Agreement shall extend to and be binding upon the permitted heirs, personal representatives, successors and assigns, respectively, of the parties hereto.

10.0 Merger of Agreement. This Agreement is an integrated agreement and contains the entire agreement regarding matters herein between the parties. No representations, warranties or promises have been made or relied upon by any party hereto other than as set forth herein. This Agreement supersedes and controls any and all prior communications between the parties or their representatives relative to matters contained herein. Any changes, modifications, or additions to this Agreement shall be made by mutual consent in writing in the form of a supplemental Agreement signed by both parties and attached hereto.

11.0 Notices. All notices hereunder shall be in writing and shall be delivered by certified mail, return receipt requested, or by overnight carrier to the following addresses:

As to Broker:
Buckeye Energy Brokers, Inc.
66 East Mill Street
Akron, Ohio 44308

As to Client:
City of Richmond Heights
Attn: Mayor
26789 Highland Road
Richmond Heights, OH 44143

12.0 Governing Law. This Agreement shall be governed by, subject to the jurisdiction of and construed in accordance with, the laws and courts of the State of Ohio.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and represent that the persons whose signatures appear below are duly authorized to execute the same.

City of Richmond Heights
CLIENT

By: _____

Print: _____

Its: _____

On: _____

Buckeye Energy Brokers, Inc.
BROKER

By: _____

Print: _____

Its: _____

On: _____