



**DRAFT**

## **COUNCIL AGENDA**

**Monday, May 20, 2024 – 7:00 pm**  
**Waynesville Municipal Building, 1400 Lytle Road**

- I. Roll Call
- II. Pledge of Allegiance
- III. Mayor (for purposes of acknowledgments)
- IV. Disposition of Minutes of Previous Meetings  
Council, May 6, 2024 at 7:00 p.m.
- V. Public Recognition/Visitor's Comments (A five minute per person time limit will be allowed for each speaker unless more time is requested and approved by a majority of the council)
- VI. Old Business
- VII. Reports
  - Standing Council Committees
    - a) Finance Committee
    - b) Public Works Committee
    - c) Special Committees
  - Village Manager's Report
  - Police Report
  - Finance Director's Report
  - Law Directors Report
- VIII. New Business:

**Legislation:**

**Reading of Ordinances and Resolutions:**

**DRAFT**

**First Reading of Ordinances and Resolutions:**

**ORDINANCE 2024-018**

AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT FOR ELECTRIC GENERATION SUPPLY WITH A COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDER AND DECLARING AN EMERGENCY

**Second Reading of Ordinances and Resolutions:**

**ORDINANCE NO. 2024-017**

AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN ADDENDUM TO THE CONTRACT WITH SCHINDLER ELEVATOR CORPORATION

**Tabled:**

IX. Executive Session

X. Adjournment

*Next Regular Council Meeting:*

**June 3, 2024 at 7:00 pm**

*Upcoming Meetings and Events:*

Finance Meeting, May 20<sup>th</sup>, 2024 @ 6:00 p.m.  
Public Works Committee, June 3, 2024 @ 6:00 p.m.

DRAFT

**Village of Waynesville  
Council Meeting Minutes  
May 6, 2024 at 7:00 pm**

Present: Mr. Brian Blankenship  
Mr. Chris Colvin  
Ms. Joette Dedden  
Mr. Zack Gallagher  
Mayor Earl Isaacs  
Mr. Troy Lauffer  
Mrs. Connie Miller

Village Staff Present: Jeff Forbes, Law Director; Chief Gary Copeland, Village Manager and Safety Director; Jamie Morley, Finance Director and Clerk of Council

**CLERK'S NOTE-** *This is a summary of the Village Council Meeting held on Monday, May 6, 2024.*

Mayor Isaacs called the meeting to order at 7:00 p.m.

**Mayor Acknowledgments**

Mayor Isaacs said that the Village is looking good. It may have taken a while, but it is paying off. He added that there are still a few things to fix and complete, but the projects are starting to finish up.

**Disposition of Previous Minutes**

Mr. Colvin motioned to approve the Council minutes as written for the April 15, 2024, Council meeting, and Mrs. Miller seconded the motion.

Motion – Colvin

Second – Miller

**Roll Call – 7 yeas**

## **Public Recognition/Visitor's Comments**

None

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## **Old Business**

None

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## **Reports**

### **Finance**

The Finance Committee will meet on Monday, May 20<sup>th</sup>, 2024, at 6:00 p.m. The public is invited to attend.

### **Public Works Report**

Public Works met this evening to discuss ongoing projects throughout the Village. The next meeting will be on June 3, 2024, at 6:00 p.m.

### **Special Committee Reports**

The MOMS Committee meeting scheduled for April 29, 2024, was canceled and will be rescheduled.

The Historic Preservation Board will be meeting tomorrow at 6:00 p.m. to discuss the proposed solar panel codes and how they may affect the Historic District.

### **Village Manager Report**

- The OPWC Franklin Phase I project is almost complete. Chief Copeland will be meeting with Choice One and KT Holden to go over a punch-out list.
- Ordinance 2024-014 is an addendum to the current contract the Village has with Schindler Elevator for the maintenance and inspection of the Government Center's elevator. This will lower the price and change the renewal process. Instead of renewing every five years for an additional five years, it will be for three years and then go month to month.
- The electric aggregate for Village-owned properties ends soon. Chief Copeland is receiving three quotes and will have an ordinance for the next Council meeting.

- Provided photos of Kitty Crockett receiving her proclamation declaring it Kitty Crockett Day.
- The Street Department has been cleaning up the landscaping around the Government Building.
- Provided information for the Annual Corwin Tractor Show.

## **Police Report**

- March dispatched calls for service, the Mayor's Court month-end report, and the code enforcement report have been provided for review.
- Chief Copeland attended Warren County Veteran's Court Peer Mentor Awards Ceremony.
- There is an ordinance for the renewal of the School Resource Officer with Wayne Local Schools. This is a three-year contract, and once approved by Council, Chief Copeland will submit it to the School Board.
- April 27 was National Drug Take-Back Day. The Waynesville Police Department collected 48.5 lbs. of prescription drugs.

Mrs. Miller asked why the Mayor's Court has collected less than last year. Chief Copeland responded that it had been due to a lack of activity. He has said something to the officers and has noticed an uptick in activity. He also added that with the construction on Route 73, there is less speeding. Furthermore, it has been a very rainy spring, and officers do not like to get out in the rain. Mrs. Miller asked if the new judge was still doing a good job and wanted to ensure this did not have anything to do with him. Chief Copeland assured her that Magistrate Kauffman was doing a great job.

## **Financial Director Report**

- The funds received from the American Rescue Plan have been spent accordingly. All reports have been filed.
- Open Checkbook has been updated through 2023.
- The switchover from Anthem to Aetna for employee healthcare has been seamless.
- Provided a quote from American Legal to codify ordinances for the Village and would like the Council's input on how to proceed.

Ms. Morley explained that the current codes are through 2020. This update would be for 2021, 2022, and 2023. Ms. Dedden asked if it would be less expensive to do this yearly rather than wait. Ms. Morley responded she would inquire. Mr. Lauffer asked if there were other options than American Legal. Mr. Forbes responded that American Legal is the standard and one of the few companies that offer this service. He added that the Village's codes are already in American Legal's database. Mr. Forbes reminded Council that the Charter requires the Village to codify their ordinances every five years. It was agreed for Ms. Morley to proceed with American Legal.

**Law Report**

None

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**New Business**

None

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**Legislation**

**First Reading of Ordinances and Resolutions**

**Ordinance No. 2024-016**

Authorizing the Village Manager to Enter into School Resource Officer Agreements with the Board of Education of the Wayne Local School District and Declaring an Emergency

Ms. Dedden motioned to waive the two-reading for Ordinance No. 2024-016, and Mr. Blankenship seconded the motion.

Motion – Dedden  
Second – Blankenship

**Roll Call – 7 yeas**

Mr. Lauffer motioned to adopt Ordinance No. 2024-016 as an emergency, and Mrs. Miller seconded the motion.

Motion – Lauffer  
Second – Miller

**Roll Call – 7 yeas**

**Ordinance No. 2024-017**

Authorizing the Village Manager to Execute an Addendum to the Contract with Schindler Elevator Corporation

Mr. Gallagher motioned for the first reading for Ordinance No. 2024-017, and Mr. Colvin seconded the motion.

Motion – Gallagher  
Second – Colvin

**Roll Call – 7 yeas**

## **Second Reading of Ordinances and Resolutions**

**Ordinance No. 2024-015**

## An Ordinance Authorizing the Waiver of the Partial Water of Certain Water Fees

Ms. Dedden motioned to amend Ordinance No. 2024-015 and declare an emergency, and Mr. Gallagher seconded the motion.

Motion – Dedden  
Second – Gallagher

## Roll Call – 7 yeas

Mr. Gallagher added that this discounted rate would apply to usage from September 2023 to February 2024.

Mr. Gallagher motioned to adopt Ordinance No. 2024-015 as an emergency, and Mr. Blankenship seconded the motion.

Motion – Gallagher  
Second – Blankenship

## Roll Call – 7 yeas

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## **Tabled Ordinances and Resolutions**

None

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## Executive Session

None

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All were in favor of adjourning at 7:27 pm.

Date: \_\_\_\_\_

Jamie Morley, Clerk of Council



Finance Committee

Date: 4/18/24

Committee members: Joette Dedden, Chris Colvin

Finance Director: Jamie Morley

Guests: Connie Miller

**DRAFT**

- 1) Roll call. Present Joette Dedden and Chris Colvin. Absent Troy Lauffer
- 2) Motion to approve the March minutes by Joette Dedden, second Chris Colvin and 2 yes votes to approve the minutes.
- 3) Motion to excuse Troy Lauffer by Chris Colvin, second Joette Dedden and 2 yes votes to excuse Troy Lauffer.
- 4) Question by Chris Colvin on logging into the RITA account. Jamie Morley stated she has submitted the paperwork to request account access now that Kitty Crocket has retired and Jamie is now the Finance Director.
- 5) Question by Chris Colvin on the bank reconciliation statement and if the \$130.50 will eventually be taken off the books following the latest audit. Jamie Morley clarified that the latest audit did not cover the year of which the \$130.50 applies (in January 2023) and a future audit is expected to cover it next year. So the bank reconciliation will continue to show the \$130.50 for now. The latest audit covered years 2021-2022.
- 6) Question by Chris Colvin on the review status page pertaining to the cable franchise fees and whether the numbers reflect Altafiber along with Spectrum? Jamie Morley stated once Altafiber comes into the Village then it will be setup and included in the cable franchise category. The fee is a percentage of the revenue by each company.
- 7) Question by Chris Colvin on the review status page 2 pertaining to fund 2041 for Parks and Rec of \$1000 while the fund balance shows \$2842? Jamie Morley clarified that the review status reflects what is budgeted and the fund balance shows what is the actual funding. Jamie Morley stated what was appropriated was \$1500.
- 8) Jamie Morley mentioned that the Charter has a provision that water supplied to the Library park, if passed by resolution, and can be sold at 1/2 the cost. An example would be the water supplied to the Bicentennial Park.
- 9) Question by Joette Dedden on the last page of the appropriations report and the last page of the revenue report. The appropriations final number is larger than the revenue report final number? Jamie Morley stated the appropriations number includes grant money and the revenue report does not show grant money. The appropriations report also includes contingency funding and the review report does not.



Jamie Morley stated that the Village has not over spent as a result of the appropriations process and has been able to carry forward review from one year to the next in the range of \$200,000.

10) Question by Chris Colvin if RITA is now proceeding to recover taxes owed the Village? Jamie Morley

has not heard any news on RITA taking action yet and we expect approximately \$265,000 of additional review based upon the numbers RITA provided. The municipal income tax was budgeted for approximately \$750,000 with a potential additional \$265,000.

11) Jamie Morley reported that the CD investing returned approximately \$13,000.

12) Question by Chris Colvin on the open records checkbook status? Jamie Morley stated that she and Kitty uploaded to the system thru year 2023 though the website was not showing information beyond year 2022. Jamie will check with UAN to see why all the information is not being displayed yet.

13) Joette Dedden stated the next meeting will be May 20th and the committee will resume meeting at 6pm on the third Monday of the month now that our Finance Director, Jamie Morley, is available to support the meetings.

14) Jamie Morley mentioned a street light on Marvins Lane that is not covered by Miami Valley Lighting contract and Council may consider legislation to add it to the contract. The additional cost is expected to be approximately \$327 a year to include it to the contract as an addendum. The light is near to the grocery. Motion was made to have Chief Copeland review the status of the light, on whether to bring it up with public works. The committee is supportive of adding the light to the Miami Valley Lighting contract.

15) Motion to adjourn at 5:31pm by Joette Dedden, second Chris Colvin and 2 yes votes to end the meeting.

# Council Report

May 20, 2024

Chief Copeland

## Manager

- I have prepared an emergency ordinance for a utility aggregation agreement with Trebel (Archer Energy) for all of the Village Government properties. I received quotes from Trebel, Goldstar, and Utility Choice. I recommend that Council approve ordinance 2024-018, because our current provider contract expires May 31<sup>st</sup> and Trebel is offering the best kWh rate. In addition, I would like to do the 24 month program because Trebel is our residential utility aggregate provider and this agreement will fall in the same timeframe for renewal as the residential contract. An exhibit has been included.
- Mitchell's Plumbing sanitary line broke over the past few months. KT Holden did not believe the damage was done by their crew during the Franklin Road phase 1 waterline, storm line and repaving project. We did an in-house repair of the sanitary line and I am currently in discussion with KT Holden about restitution to the Village for our manpower hours and materials. I will keep the Public Works Committee updated.



- In March, I asked Police Clerk Ashley Richardson to help me look for replacement batteries for our AEDs (defibrillators). A subsequent investigation revealed that our units were obsolete and we could not get batteries. Ashley took it upon herself to reach out to Premier Health, Kettering Health, and TriHealth for any support they can provide for replacement units. On May 8<sup>th</sup>, a representative from Premier Health contacted me and advised that the Atrium Medical Center Foundation is going to purchase one AED unit for our agency in the amount of \$1,435.00. In addition, on May 14<sup>th</sup>, I was contacted by the Marketing Operations Coordinator of Kettering Health and they have committed to purchasing four AED units in the amount of \$5,740.00. I would like to acknowledge Ashley for a great job and being proactive on the Village needs. A letter of appreciation for an outstanding job will be put into her personnel file.



- The State Elevator Inspector did an inspection to our elevator on May 9<sup>th</sup>. He did find a discrepancy to the Mechanical Room door in the basement. Because of the humidity, the door would not close on its own. It had swelled and would stop just shy of latching. Brian from the Maintenance Department made some adjustments and sanded a little off the door, so it should be good to go now.



- The waterlines and storm waterlines on Third Street are done. They will be doing curb repairs, street repairs, and property restoration for the next few weeks. They are on schedule to mill and repave Third Street mid-to-late June.
- The split rail fence at the Government Center has been deteriorating over the years and it is required for safety with the retaining wall. The Street Maintenance Department has been constructing a new fence to replace the old one. Progress photos have been included for your review.



- The 2024 Independence Day Parade will be on Saturday, June 29<sup>th</sup>. It will be followed by various events at Bicentennial Park and conclude with fireworks supported by the Waynesville American Legion Post 615.

## Police

- The Wayne Local Schools DARE Graduation is scheduled for Wednesday, May 22<sup>nd</sup> at 09:30am. Please let me know if any Council member is interested in attending this event. SRO Mermann and I will be in attendance.

- A copy of the School Resource Officer agreement and ordinance (Ord # 2024-016) that was approved by Council on May 6<sup>th</sup> has been given to the school and it will be presented to the School Board at their next meeting on June 10th. This is a renewal contract between the Village Police Department and Wayne Local Schools for a School Resource Officer from August 2024 through May 2027.
- The last day of school is May 22<sup>nd</sup> and Officer Mermann will go back on road patrol and cover vacation days.
- I want to thank John and Heather Walton for providing the officers with a breakfast casserole and donuts for Police Appreciation Week.



## Gary Copeland

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**From:** jschultz gseusa.com <jschultz@gseusa.com>  
**Sent:** Wednesday, May 8, 2024 2:19 PM  
**To:** Gary Copeland  
**Cc:** Tom Engle  
**Subject:** Village of Waynesville Pricing-AEP

Here is what I have for you.

12 months--.05802

24 months-.05983

36 months-.06156

Pricing may change due to market changes. To give you a firmer price I would have to refresh either the day before or the day of you meeting depending on what time it is.

Joel Schultz  
Director of Operations  
*Gold Star Energy, LLC*  
*4076 E Patterson Rd.*  
*Beavercreek, OH 45430*  
*Cell- 937-218-1475*  
*Fax- 937-795-3154*  
*Office- 937-429-9980*  
*Website-gseusa.com*



## Gary Copeland

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**From:** Joe Garrett <JGarrett@trebelenergy.com>  
**Sent:** Tuesday, May 7, 2024 1:47 PM  
**To:** Gary Copeland  
**Subject:** Re: Village of Waynesville aggregate

Chief Copeland,

Please see electric prices below. We supplied with and without capacity charges. The capacity is unknown for the 24 and 36 month terms so contracting without it and just having it added once it is settled may save a little on the costs.

Our recommendation on the natural gas is to go back to Centerpointe for now. Currently their rates are lower than anything being offered in the market. If that changes then signing a contract would make sense at that time.

Thanks,  
Joe

Including Capacity  
12 month \$0.04846  
24 month \$0.05064  
36 month \$0.05285

Excluding Capacity  
12 month \$0.04761  
24 month \$0.04979  
36 month \$0.05173

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**From:** Gary Copeland <gcopeland@waynesville-ohio.org>  
**Sent:** Thursday, May 2, 2024 2:37 PM  
**To:** Joe Garrett <jgarrett@trebelenergy.com>  
**Cc:** Gary Copeland <gcopeland@waynesville-ohio.org>  
**Subject:** FW: Village of Waynesville aggregate

[You don't often get email from gcopeland@waynesville-ohio.org. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Joe,  
I have provided a gas bill and electric bills for your review. Please provide an aggregation quote as soon as possible. Our current aggregate agreement ends at the end of May.  
Thank you,  
Chief Copeland

The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.



The background is a vibrant blue with abstract geometric shapes. A dark blue horizontal bar is positioned above the main title. In the top right corner, there is a stylized, textured representation of a building's facade. The overall design is modern and professional.

# ENERGY PROPOSAL

May 14, 2024

Presented by:

**Utility Choice Program**

**Village Of  
Waynesville**



# Pricing Proposal

## Village Of Waynesville



**START DATE**  
06/01/2024



**ANNUAL VOLUME**  
627,074 kWh



**COMMODITY**  
Electricity



**UTILITY**  
OH-AES Ohio (Dayton  
Power & Light (DP&L))

With regard to the request for pricing information for Village Of Waynesville, we are pleased to provide you with the following pricing options for your consideration. These suppliers and quotes have been selected from our vast array of pricing combinations because they are best suited for your business needs.

| Supplier                                                                                          | Product                 | 12 Month | 24 Month | 36 Month | 48 Month | 60 Month |
|---------------------------------------------------------------------------------------------------|-------------------------|----------|----------|----------|----------|----------|
|  APG&E            | Fixed Price Single Bill | 0.06791  | 0.07082  | 0.0729   | 0.07513  | 0.0774   |
|  DYNEGY           | Fixed Price Single Bill | 0.06307  | 0.06704  | 0.06926  | 0.07123  | 0.0728   |
|  smartestenergy | Fixed Price Single Bill | 0.06236  | 0.06283  | 0.0648   | 0.06641  | 0.06768  |

Sincerely,

**COREY HARBIN**

Utility Choice Program

corey@utilitychoiceprogram.com

Office : 877-656-7779

Prices Are Valid For 05/14/2024  
Rates expire at 4PM CST.

## Finance Director Report

May 20, 2024

Jamie Morley

- The April bank rec has been balanced. There is still an unknown \$130.50.
- The Village received \$20,908.32 in interest from the Sweep account and \$2,599.34 in interest from Star Ohio.
- I have started the budget for 2025 and plan to have a public hearing before the Council meeting on June 17th.
- American Legal has started the process of codifying the ordinances.

Thank You,

Jamie Morley

Finance Director/Clerk of Council

**ORDINANCE NO. 2024-017**

**AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN  
ADDENDUM TO THE CONTRACT WITH SCHINDLER ELEVATOR  
CORPORATION**

WHEREAS, the Village of Waynesville has previously entered into a contract with Schindler Elevator Corporation.; and

WHEREAS, Schindler Elevator Corporation has proposed an addendum to said contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Waynesville, Ohio, \_\_\_\_\_ members elected thereto concurring:

Section 1. That the Village Manager is hereby authorized to execute an addendum to the contract with Schindler Elevator Corporation substantially in the form of the addendum attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. That this shall be effective from and after the earliest period allowed by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk of Council



**Schindler**

**Schindler Elevator Corporation**

16450 Foothill Blvd., Ste. 200

Sylmar, CA 91342-1036

Telephone: (818) 336-3000

Facsimile: (818) 336-3076

## Addendum

To: Waynesville Gov. Center Bldg  
1400 Lytle Rd  
Waynesville, OH 45068

Building: Waynesville Gov. Center Bld1  
1400 Lytle Rd  
Waynesville, OH 45068

The Elevator Maintenance Contract number **4100035774** dated 09/01/2014 between Schindler Elevator Corporation and Waynesville Gov. Center Bldg for the Building listed above and all addendums that followed the original Maintenance Contract are modified as follows:

- Effective 04/26/2024, the contract will be extended an additional three (3) years from the expiration date of the contract 08/31/2024. The new expiration date will be 08/31/27 and the contract will not auto-renew. It will continue on a month to month basis until either party provides a 30 day cancellation notice
- Effective 04/26/2024, the monthly price of the contract will be reduced from \$66.10 to \$46.00. The payment frequency will not be changed.

All other Terms and Conditions of the original Contract remain in full force and effect, except as specifically modified herein. Upon approval by authorized officials below, this supplement shall be incorporated into and become a part of the original Maintenance Contract between both parties.

Approved by:  
**Waynesville Gov. Center Bldg**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by:  
**Schindler Elevator Corporation**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Schindler RM

## SCHINDLER ELEVATOR CORPORATION

5426 Duff Drive  
Cincinnati, OH 45246-1323  
Phone: 513-341-2596  
Fax: 513-341-2601

**Date:** August 28, 2014

**Estimate Number:** KSCI-9NEJUV (2014.4.1)

**To:**

Waynesville Gov. Center Bldg  
1400 Lytle Rd  
Waynesville, OH 45068-8482

**Building Name:**

Waynesville Gov. Center Bldg

**Attn:** Gary Copeland

### EQUIPMENT DESCRIPTION

| Qty                                                                      | Manufacturer | Equipment           | Application Description | Rise/Length<br>Openings | Capacity | Speed | Install# |
|--------------------------------------------------------------------------|--------------|---------------------|-------------------------|-------------------------|----------|-------|----------|
| Waynesville Gov. Center Bldg<br>1400 Lytle Rd Waynesville, OH 45068-8482 |              |                     |                         |                         |          |       |          |
| 1                                                                        | Schindler    | Hydraulic Passenger | Passenger Elevator      | 2F/0R                   | 2100     | 100   |          |

**SCHINDLER ELEVATOR CORPORATION** ("Schindler", "we", "us") 5426 Duff Drive, Cincinnati, OH 45246-1323, and **WAYNESVILLE GOV. CENTER BLDG**, 1400 Lytle Rd, Waynesville, OH 45068-8482 ("you") agree as follows:

### REMOTE MONITORING COVERAGE

We will:

- Remotely monitor equipment performance
- Perform an annual inspection of the Equipment
- Perform additional inspections at your request, authorization and agreement to pay us at our standard billing rates, when SRM output indicated the necessity for such inspections
- Report to you any necessary repairs discovered by us in the performance of such inspections or review of SRM output
- Upon your request, provide you with a proposal for necessary repairs at our standard billing rates
- Perform safety testing

### REMOTE MONITORING OF EQUIPMENT PERFORMANCE

We will remotely monitor those functions of the Equipment described above which are remote monitoring capable. Our Remote Monitoring System ("SRM") will automatically notify us if any monitored component or function is operating outside established parameters. We will then communicate with you to schedule appropriate service calls. Monitoring will be performed on a 24 hour, 7 day basis and will communicate toll free with our Schindler Customer Service Network using dedicated elevator telephone service. The operation and monitoring of SRM is contingent upon availability and maintenance of dedicated elevator telephone service. You have the responsibility to install, maintain and pay for such telephone service, and to notify us at any time of any interruption of such telephone service.

If requested, you will provide the proper wiring diagrams for the equipment covered. These diagrams will remain your property, and will be maintained by Schindler for use in troubleshooting and servicing the equipment.

#### **TESTING OF SAFETY DEVICES**

| <b><u>Equipment</u></b> | <b><u>Test</u></b>    | <b><u>Frequency</u></b> |
|-------------------------|-----------------------|-------------------------|
| Hydraulic               | Pressure/Relief Valve | Annually                |

Our testing responsibilities do not include fees or charges imposed by local authorities in conjunction with witnessing, witnessing costs, inspecting, assisting inspection authorities, licensing or testing the Equipment including observation of testing by 3rd parties; changes in the testing requirements after the initial start date of this Agreement, or any other testing obligations other than as specifically set forth above, including, but not limited to seismic tests. Since these tests may expose the equipment to strains well in excess of those experienced during normal operation, Schindler will not be responsible for any damage to the equipment or property, or injury to or death of any persons, resulting from or arising out of the performance of these tests. Further, our testing responsibilities do not include performance, or the keeping of records related to, monthly firefighters service.

#### **HOURS OF SERVICE**

We will perform the services during our regular working hours of regular working days, excluding elevator trade holidays. The services do not include callbacks during regular or overtime hours. If you authorize services outside the scope of this agreement, or callbacks at any time, you will pay us at our standard billing rates, plus materials not covered by contract, expenses and travel.

#### **TERM**

This Agreement commences on September 01, 2014, and continues until August 31, 2019, and shall renew (where permitted by applicable local law) for subsequent similar periods, unless terminated by either party upon written notice received by the other party at least 90 days prior to the above termination date or any renewal termination date, and not more than 120 days before the termination date.

#### **PRICE**

In consideration of the services provided hereunder, you agree to pay us the sum of \$40.00 per month, payable in annual installments of \$480.00, exclusive of applicable taxes, unless another payment frequency option is selected below.

#### **PRICE ADJUSTMENT**

The contract Price and labor rates for extra work will be adjusted annually in January. This adjustment will be based upon the local labor rate adjustment for the year in which it is adjusted, and will be increased or decreased on the basis of changes to the local straight time hourly rate for mechanics. If there is a delay in determining a new labor rate, or an interim determination of a new labor rate, we will notify you and adjust the price at the time of such determination, and we will retroactively bill or issue credit, as appropriate, for the period of such delay. We also reserve the right to adjust the contract price quarterly / annually on the basis of changes in other expenses such as fuel, waste disposal, government regulations or administrative costs. Should you elect to take the annual pre-payment option, the price adjustment date will default to coincide with the invoice date.

### PAYMENT OPTIONS

(1) Please select a Method of Payment:

|                                     |              |                                                           |
|-------------------------------------|--------------|-----------------------------------------------------------|
| <input type="checkbox"/>            | Direct Debit | 1% Discount (Attach Copy of voided check)                 |
| <input type="checkbox"/>            | Credit Card  | 3% Addition                                               |
| <input type="checkbox"/>            | Visa         | <input type="checkbox"/> MC <input type="checkbox"/> AMEX |
| Number: _____                       |              |                                                           |
| Expiration Date: _____              |              |                                                           |
| <input checked="" type="checkbox"/> | Signature:   | _____                                                     |
| <input checked="" type="checkbox"/> | Check        |                                                           |
| <input type="checkbox"/>            | Other:       | _____                                                     |

(2) Please select a Payment Frequency (Other than Annual):

|                          |             |             |
|--------------------------|-------------|-------------|
| <input type="checkbox"/> | Semi-Annual | 1% Addition |
| <input type="checkbox"/> | Quarterly   | 3% Addition |
| <input type="checkbox"/> | Monthly     | 5% Addition |



The attached terms and conditions are incorporated herein by reference.  
Acceptance by you as owner's agent or authorized representative and subsequent approval by our authorized representative will be required to validate this agreement.

(480<sup>00</sup> per year)

Proposed:

[Signature]

By: Kathy Schibi

For: Schindler Elevator Corporation

Title: Sales Representative

Date: August 28, 2014

Accepted:

By: [Signature]

For: Waynesville Gov. Center Bldg

Title: Acting Village Manager

Date: Sept 8 2014

Approved:

[Signature]

By: Darin Middelhoff

Title: Branch Manager

Date: 10/22/14

## TERMS AND CONDITIONS

1. This is the entire Agreement between us, and no other terms or conditions shall apply. This service proposal does not void or negate the terms and conditions of any existing service agreement unless fully executed by both parties. No services or work other than specifically set forth herein are included or intended by this Agreement.
2. You retain your responsibilities as Owner and/or Manager of the premises and of the Equipment. You will provide us with clear and safe access to the Equipment and a safe workplace for our employees as well as a safe storage location for parts and other materials to be stored on site which remain our property, in compliance with all applicable regulations related thereto, you will inspect and observe the condition of the Equipment and workplace and you will promptly report potentially hazardous conditions and malfunctions, and you will call for service as required; you will promptly authorize needed repairs or replacements outside the scope of this Agreement, and observe all testing and reporting responsibilities based upon local codes. You will not permit others to work on the Equipment during the term of this Agreement. You agree that you will authorize and pay for any proposed premaintenance repairs or upgrades (including any such repairs or upgrades proposed during the first 30 days of this agreement), or we will have the option to terminate this Agreement immediately, without penalty to us. You agreed to post and maintain necessary instructions and / or warnings relating to the equipment.
3. We will not be liable for damages of any kind, whether in contract or in tort, or otherwise, in excess of the annual price of this Agreement. We will not be liable in any event for special, indirect or consequential damages, which include but are not limited to loss of rents, revenues, profit, good will, or use of Equipment or property, or business interruption.
4. Neither party shall be responsible for any loss, damage, detention or delay caused by labor trouble or disputes, strikes, lockouts, fire, explosion, theft, lightning, wind storm, earthquake, floods, storms, riot, civil commotion, malicious mischief, embargoes, shortages of materials or workmen, unavailability of material from usual sources, government priorities or requests or demands of the National Defense Program, civil or military authority, war, insurrection, failure to act on the part of either party's suppliers or subcontractors, orders or instructions of any federal, state, or municipal government or any department or agency thereof, acts of God, or by any other cause beyond the reasonable control of either party. Dates for the performance or completion of the work shall be extended by such delay of time as may be reasonably necessary to compensate for the delay.
5. You will assign this Agreement to your successor in interest, should your interest in the premises cease prior to the initial or any renewal termination date. If this Agreement is terminated prematurely for any reason, other than our default, including failure to assign to a successor in interest as required above, you will pay as liquidated damages (but not penalty) the full remaining amount due under this Agreement.
6. The Equipment consists of mechanical and electrical devices subject to wear and tear, deterioration, obsolescence and possible malfunction as a result of causes beyond our control. The services do not guarantee against failure or malfunction, but are intended to reduce wear and prolong useful life of the Equipment. We are not required to perform tests other than those specified previously, to install new devices on the equipment which may be recommended or directed by insurance companies, federal, state, municipal or other authorities, to make changes or modifications in design, or to make any replacements with parts of a different design. We are responsible to perform such work as is required due to ordinary wear and tear. We are not responsible for any work required, or any claims, liabilities or damages, due to: obsolescence; accident; abuse; misuse; vandalism; adverse machine room conditions (including temperature variations below 60 degrees and above 90 degrees Fahrenheit) or excessive humidity; overloading or overcrowding of the Equipment beyond the limits of the applicable codes; adverse premises or environmental conditions, power fluctuations, rust, or any other cause beyond our control. We will not be responsible for correction of outstanding violations or test requirements cited by appropriate authorities prior to the effective date of this agreement.
7. Invoices (including invoices for extra work outside the fixed price) will be paid upon presentation, on or before the last day of the month prior to the billing period. Late or non-payments will result in:
  - (a) Interest on past due amounts at 1½% per month or the highest legal rate available;
  - (b) Termination of the Agreement on ten (10) days prior written notice; and
  - (c) Attorneys' fees, cost of collection and all other appropriate remedies for breach of contract.

8. If either party to this Agreement claims default by the other, written notice of at least 30 days shall be provided, specifically describing the default. If cure of the default is not commenced within the thirty-day notification period, this Agreement may be terminated. In the event of litigation, the prevailing party will be entitled to its reasonable attorneys' fees and costs. If you elect to modernize any or all of the Equipment during the term of this agreement, you will give us the option, within a reasonable time, to prepare an offer for the work and/or evaluate competitor proposals and compare scope of work and price. If we are unable to match price and scope of work, or present an alternative proposal, this Agreement may be canceled with ninety (90) days written notice.

9. Any proprietary material, information, data or devices contained in the equipment or work provided hereunder, or any component or feature thereof, remains our property. This includes, but is not limited to, any tools, devices, manuals, software (which is subject to a limited license for use in this building/premises/ equipment only), modems, source/ access/ object codes, passwords and the Schindler Remote Monitoring feature ("SRM") (if applicable) which we will deactivate and remove if the Agreement is terminated.

10. You will prevent access to the Equipment, including the SRM feature and/or dedicated telephone line if applicable, by anyone other than us. We will not be responsible for any claims, losses, demands, lawsuits, judgment, verdicts, awards or settlements ("claims") arising from the use or misuse of SRM, if it or any portion of it has been modified, tampered with, misused or abused. We will not be responsible for use, misuse, or misinterpretation of the reports, calls, signals, alarms or other such SRM output, nor for claims arising from acts or omissions of others in connection with SRM or from interruptions of telephone service to SRM regardless of cause. You agree that you will defend, indemnify and hold us harmless from and against any such claims, and from any and all claims arising out of or in connection with this Agreement, and/or the Equipment, unless caused directly and solely by our established fault.

11. Should this Agreement be accepted by you in the form of a purchase order, the terms and conditions of this Agreement will take precedence over those of the purchase order.

12. Schindler Elevator Corporation is insured at all locations where it undertakes business for the type of insurance. You agree to accept, named as certificate holder, in full satisfaction of the insurance requirements for this Agreement, our standard Certificate of Insurance. Limits of liability as follows:

- (a) Workers' Compensation - Equal to or in excess of limits of Workers' Compensation laws in all states and the District of Columbia.
- (b) Comprehensive Liability - Up to Two Million Dollars (\$2,000,000.00) single limit per occurrence, Products/Completed Ops Aggregate \$5,000,000.
- (c) Auto Liability - \$5,000,000 CSL.
- (d) Employer's Liability - \$5,000,000 Each Accident/Employee/Policy Limit.

**ORDINANCE 2024-018**

**AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN  
AGREEMENT FOR ELECTRIC GENERATION SUPPLY WITH A  
COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDER AND  
DECLARING AN EMERGENCY**

WHEREAS, in accordance with the Public Utilities Commission of Ohio rules and regulations, the Village has the opportunity to maximize savings on the generation and transmission portion of their electric service costs through the selection of a competitive retail electric service provider; and

WHEREAS, the Village now desires to seek competitive pricing for a new electric generation and transmission supply service agreement ("Agreement") for municipal accounts; and

WHEREAS, after reviewing proposals, the Village has determined that Trebel Energy has submitted the best proposal.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Waynesville,  
\_\_\_\_\_ members elected thereto concurring:

Section 1. That the Village Manager is hereby authorized to execute an Ohio Electricity Supply Agreement with Archer Energy, substantially in the form of that attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall be effective immediately upon its adoption. The reason for said declaration of emergency is the need to authorize the agreement prior to the expiration of the proposal price.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor



## Large Commercial Electric Sales Agreement

This **COMMERCIAL ENERGY SALES AGREEMENT** ("Agreement") is entered into and made by and between Archer Energy, LLC ("Archer") and the buyer of retail electricity identified herein ("Buyer"). This Agreement shall be effective as of the date signed below (the "Effective Date"). Archer and Buyer may be individually referred to as "Party" or collectively as "Parties". The Parties hereby agree as follows:

**1. Purchase and Sale:** Archer shall sell and Buyer shall purchase and receive electric energy for Buyer's facility(ies) as specified in section 31 ("Delivery Point(s)") at the price(s) per kilowatt hour (kWh) specified ("Contract Price"). The electric energy will be delivered to a point or points on the transmission system as identified by the Electric Distribution Utility ("EDU") operated by the Independent System Operator/regional transmission entity ("ISO"). Delivery to meters corresponding to each Delivery Point will be made by the EDU.

**2. Metering:** All energy delivered hereunder ("Usage") shall be and can only be, measured by the EDU at meters located at each Delivery Point. Actual Usage shall be the primary method of calculating the monthly charges for Buyer. However, Archer may use estimated Usage if measurements of actual Usage are not received timely from the EDU, in which case Archer will make appropriate adjustments upon receipt of actual Usage. Archer cannot guarantee a switch of Buyer's account(s) to Archer will occur by a specific date, and Archer shall not be liable for delays in this process caused by the ISO or the EDU. The Service Start Date shall be the date upon which a particular account is switched to Archer. The Service Start Date is typically the scheduled read date that occurs in the month and year identified as the Start Date as specified in section 31. The Service End Date is typically the scheduled read date that occurs in the month and year identified as the End Date also specified in section 31. Each account may have a separate Service Start Date and Service End Date. Archer acknowledges and represents that it is familiar with the rules and procedures of the local distribution company (EDU) regarding transfer of service to a competitive retail electric service provider ("CRES"). If the EDU requires Buyer to install additional metering and/or related equipment at any service address, Buyer will be solely responsible for all charges and arrangements required by the EDU.

**3. Pricing:** Buyer will pay (1) the Contract Price times the Usage, plus capacity related charges as outlined below and (2) for Usage that is for a time period outside of the Term, any amounts calculated per Paragraph 5 below. The Contract Price per kWh includes by-passable generation charges except all capacity and capacity related charges. Capacity will be passed through to the Buyer at the rate charged to Seller by the applicable EDU and ISO. A broker or consultant may have been involved in the negotiation of this contract and such broker or consultant's fee or commission may also be included in the Contract Price charged to Buyer.

**4. Billing & Payment:** Archer or the EDU will invoice Buyer the total amount due for electricity delivered to Buyer during each month according to the EDU's billing cycle and meter read. Such invoice shall also include all applicable Taxes, EDU and ISO Charges and other charges allowed pursuant to this Agreement and the appropriate EDU tariff. Under Consolidated billing, the buyer shall be billed and agrees to pay for electric energy in accordance with the EDU's tariff, which includes, without limitation, when payment is due and late payment charges. For all amounts billed directly by Archer, past due amounts will incur a late payment charge of 1.5% per month or the maximum amount allowable by law (the "Interest Rate"). Archer charges \$25.00 for each returned check (or ACH). Buyer shall be responsible for any and all collection costs incurred by Archer. Archer reserves the right to convert Buyer from Consolidated billing to Dual Billing, or from Dual Billing to Consolidated Billing if such a conversion will facilitate more timely billing, collections and /or payment.

**5. Pricing Parameters Outside the Contract Term:** For periods during the Usage occurs outside of the time period between the Service Start Date and the Service End Date, Archer may charge the incremental cost or value of providing electricity to Buyer, based on the difference between the Contract Price and the hourly LMP charge for the applicable location and time period plus retail margin, broker fees, and all other costs incurred in serving Buyer's locations(s) including any other similar Charges incurred by Archer during the course of the Term. Appropriate adjustments to the foregoing amounts will be made for partial months.

**6. Disputed Amounts:** If there is a good faith dispute regarding any invoice, Buyer will pay the undisputed amount of any invoice by the applicable due date, and the Parties will attempt to expeditiously resolve the dispute. Notice of any dispute must be provided within a reasonable period of time and as otherwise required by applicable law. In no event shall the disputed portion include a dispute for Taxes.

**7. Blend and Extend - Rate Adjustment and Term Extension:** At any time during the Term but no more frequently than monthly,

Buyer may request that the Term be extended or shortened and the Contract Price then in effect be changed. Upon request, Archer will submit an offer to Buyer reflecting a revised Contract Price and new Term. Buyer will be under no obligation to accept such offer.

**8. Adding and Deleting Delivery Points:** Buyer is not permitted to add or delete Delivery Points without the prior written consent of Archer.

**9. Performance Assurance:** If Archer determines, in its reasonable discretion, that Buyer's creditworthiness or ability to perform under this Agreement has become unsatisfactory (including, but not limited to, Buyer's late payment of any amounts due under this Agreement), Archer may require that Buyer provide collateral for its obligations in the form of cash, letter(s) of credit, corporate or personal guarantees, or other security in form and amount reasonably acceptable to Archer ("Performance Assurance"). Archer may require a deposit in the amount of two average months of customer billings. Deposits will be returned after one year of service and no more than one late payment has occurred. If Buyer fails to provide Performance Assurance within three (3) business days of receipt of such notice, an Event of Default shall be deemed to have occurred.

**10. Term:** This Agreement shall commence on the Effective Date and shall continue in effect through the last occurring Service End Date (the "Term") unless sooner terminated as otherwise provided in this Agreement.

**11. Assignment and Binding Effect:** Neither Party may assign this Agreement without the express written consent of the other Party, which consent shall not be unreasonably withheld. However, Archer may, without the consent of Buyer, (a) assign this Agreement to any affiliate or to any party succeeding to a substantial portion of the assets of Archer, or (b) pledge or otherwise collaterally assign its rights under this Agreement to any entity providing extensions of credit to Archer. Any successor or assignee of the rights of any Party shall be subject to all the provisions and conditions of this Agreement to the same extent as though such successor or assignee were the original Party under this Agreement. Any assignment in violation of this Paragraph 11 shall be void.

**12. Regulatory Events:** If there is a change in law, administrative regulation, rule, ISO design or structure, order, judicial decision, statute, or a change in an interpretation or application of any of the foregoing (collectively, a "Regulatory Event") and such Regulatory Event causes Archer to directly or indirectly incur any capital, operating, commodity or other costs (including, but not limited to increased Taxes) relating to the provision of services contemplated herein above those existing prior to the date of the Regulatory Event, then Archer shall be permitted to pass through the economic effects of such Regulatory Event to Buyer. For the avoidance of doubt, an increase in the rate for Network Integration Transmission Service by the EDU as approved by the FERC shall be a Regulatory Event.

**13. Confidentiality:** Neither Party shall disclose the terms of this Agreement to a third party (other than the Party's affiliates, employees, lenders, counsel, consultants, accountants and other parties who have agreed to keep such terms confidential), except in order to comply with applicable law. Each Party shall notify the other Party of any proceeding of which it is aware which may result in disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this Paragraph 13.

**14. Event of Default:** An "Event of Default" means (a) a representation or warranty made by a Party to this Agreement proves to have been false or misleading in any material respect when made or ceases to remain true during the Term (excluding Buyer's representations in Section 28, subsections (a), (b) and (c) regarding Contract Quantities and Usage, which the Parties agree will not be a basis for an Event of Default); (b) the failure of a Party to perform any covenant set forth in this Agreement which is not excused by Force Majeure or cured within five (5) business days after written notice thereof; (c) Buyer is late in the payment of two (2) or more invoices in any six (6) month period; (d) the failure of Buyer to provide Performance Assurance in accordance with Paragraph 9; (e) the failure of Buyer to utilize Archer as its sole supplier of electric energy for its Delivery Point(s) at any time during the Term (including but not limited to a switch of Buyers electric service to another provider); (f) a Party makes an assignment or any general arrangement for the benefit of creditors or otherwise becomes bankrupt or insolvent; or (g) the EDU disconnects service to one or more of Buyer's accounts as a result of Buyer's non-performance. The Party alleged to have taken, caused or been affected by any of the actions set forth above shall be considered the "Defaulting Party" and the other Party shall be considered the "Non-Defaulting Party."

**15. Termination:** Where there exists an Event of Default, the Non- Defaulting Party may terminate this Agreement upon notice to the other Party (a "Termination"). Upon Termination, the Non- Defaulting Party reserves the right to provide an invoice to the Defaulting Party for the sum of (i) any remaining amounts due under this Agreement pursuant to Paragraph 4; and (ii) an amount ("Settlement Amount") representing the then current replacement value of this Agreement together with, but without duplication, all losses and costs incurred by the Non-Defaulting Party as a result of maintaining, terminating, obtaining or re-establishing any hedge or related physical or financial positions applicable to this Agreement. Payment shall be due within five (5) days of invoicing. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other arising from this Agreement through netting, in which case all amounts owed by each Party to the other Party shall be netted so that only the excess amount remaining due shall be paid by the owing Party. Under no circumstance shall a Settlement Amount be due from a Non-Defaulting Party.

**16. Entirety of Agreement:** It is the intention of the Parties that this Agreement contains all terms, conditions, and protections in any



way related to, or arising out of, the sale and purchase of the electricity, and supersedes all prior agreements, written or oral.

**17. Force Majeure:** Except for obligations for the payment of money, if either Party is rendered unable, wholly or in part, to perform its physical obligations under this Agreement (including but not limited to the delivery or receipt of electricity hereunder) due to Force Majeure, the physical obligations of each Party will be suspended for the duration of any inability to perform for up to twenty (20) consecutive days. A Party claiming Force Majeure (the "Claiming Party") will notify the other Party by written confirmation, describing the nature, and estimated duration of such inability to perform. The cause of such inability to perform will be remedied with all reasonable dispatch. "Force Majeure" means any event or occurrence (including, but not limited to "Acts of God") that is beyond the control of a Party and that: (a) is not the result of the negligence of the Claiming Party; and (b) which, by the exercise of due diligence, the Claiming Party is unable to avoid or cause to be avoided. A claim of Force Majeure may not be based on: (a) Buyer's inability to economically use electricity purchased under this Agreement; (b) Buyer's election to close, sell, abandon or materially curtail or discontinue operation of Buyer's facilities due to any economic circumstance; (c) a Party's inability to acquire electricity at a particular price; or (d) a Party's ability to sell electricity at a price above the Contract Price.

**18. Forward Contract:** The Parties acknowledge and agree that this Agreement and the transaction(s) contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United Bankruptcy Code.

**19. Governing Law/Counterparts:** This Agreement will be interpreted in accordance with the substantive and procedural laws of the State of Ohio without giving effect to laws and rules governing conflicts of laws. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and be deemed binding through the use of facsimile signatures.

**20. Indemnification:** Each Party will indemnify, defend and hold harmless the other Party, its officers, agents, and employees from any claims, damages and actions of any kind arising from personal injury (including without limitation, death), tangible property damage or any other damages arising from or out of any event, circumstance, act or incident occurring or existing with respect to the energy provided pursuant to this Agreement, whether or not control and title to the energy is vested in Buyer. It is understood Archer will not be responsible for any damages associated with failure to deliver the electric energy or any other damages alleged to have arisen prior to delivery to Buyer's meter(s). This provision survives the termination or expiration of this Agreement.

**21. Limitation of Remedies, Liability, Damages & Disclaimer of Warranties:** FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY IS PROVIDED, SUCH EXPRESS REMEDY WILL BE THE SOLE AND EXCLUSIVE REMEDY. IF NO EXPRESS REMEDY IS PROVIDED, A PARTY'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. THE PARTIES INTEND THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSES RELATED THERETO INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE CHARACTERIZED OR DEEMED TO BE LIQUIDATED DAMAGES, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN PARAGRAPH 28, ARCHER EXPRESSLY DISCLAIMS AND MAKES NO WARRANTIES, WHETHER WRITTEN OR ORAL, WITH RESPECT TO THE ELECTRICITY SUPPLIED UNDER THIS AGREEMENT, INCLUDING EXPRESS, IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THE LIMITATIONS SET FORTH IN THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT.

**22. Modification of Agreement:** Any alteration, deletion or addition to the Agreement shall be effective only if made in a written amendment executed by both Parties. No amendment or modification shall be made to this Agreement by course of performance, course of dealing or consumption of trade, or by the failure of a Party to object to a deviation from the terms of this Agreement.

**23. No Third Party Beneficiaries; Relationship of the Parties:** There are no third party beneficiaries to this Agreement. Archer and Buyer agree that nothing in this Agreement shall be construed to constitute or imply a joint venture, partnership or association or the creation or existence of any fiduciary duty, or similar obligation or liability between Archer and the Buyer. Archer will not provide, and nothing herein will be construed as the provision of, advice regarding the value or the advisability of trading in "commodity interests" which would cause Archer or an affiliate to be considered a commodity trading advisor under the Commodity Exchange Act, 7 U.S.C. § 1-25, et seq., as amended.

**24. Severability:** If any provision of this Agreement is held to be invalid, its invalidity shall not affect the validity of any other provision of the Agreement.



**25. Survival:** All confidentiality, indemnity, liability limitation and disclaimer provisions will survive the termination of this Agreement. All obligations provided in this Agreement will remain in effect for the purpose of complying herewith.

**26. Taxes:** Buyer will be responsible for, pay, and indemnify Archer for all Taxes hereunder, whether imposed on Buyer or Archer. Archer may collect such Taxes from Buyer by increasing invoice charges for the amount of such Taxes. Buyer will provide all requested exemption certificates and information and until provided, Archer will not recognize any exemption. "Taxes" shall mean without limitation, all ad valorem, property, occupation, utility, gross receipts, sales, use, franchise, assessment fees, excise and other taxes, governmental charges, emission allowance costs, licenses, permits and assessments, and any such similar taxes other than taxes based on net income or net worth.

**27. UCC:** Except as otherwise provided in the Agreement, the Uniform Commercial Code ("UCC") or such similar collection of statutory provisions as may have been adopted and are in effect in the state of delivery shall apply to this Agreement and electricity shall be a "good" for purposes of the UCC.

**28. Representations and Warranties:** Each Party represents to the other that: (a) it is validly existing and in good standing in the jurisdiction of its formation; (b) it has not filed, does not plan to file, or had any bankruptcy proceeding filed against it; (c) execution of this Agreement has been duly authorized and is a valid and enforceable obligation; and (d) it is not a party to or subject to any commitment that may restrict or interfere with the delivery of electricity under this Agreement. Archer represents and warrants that it will comply with all local, state and federal laws applicable to competitive retail electric service providers. In addition, Buyer represents to Archer during the Term that: (a) it intends to operate its business in substantially the same manner as it has in the previous 12 months and that the Contract Quantities reflected in section 31 reasonably reflect Buyer's anticipated consumption; (be) it understands Archer is relying on this representation to purchase products and services (in quantities that closely resemble Buyer's consumption pattern of the previous 12 months) from third parties to serve Buyer's Energy requirements for the Term of this Agreement; (c) it understands that if it operates its meter(s) inconsistent with its usual and customary manner it may cause material detrimental financial impact to Archer and that Archer will pass along the impact of such changed consumption; (d) the information provided concerning its account(s) and meter(s) is true and correct; (e) any transactions entered into by Buyer related to this Agreement are understood by Buyer and made at Buyer's sole election in the exercise of independent judgment and Buyer assumes any risk associated with them; and (f) it is purchasing these services for its commercial business, strictly for its own use, and its aggregated usage during any twelve (12)-month period is, or will be, greater than 500,000 kWh. If any of the foregoing representations or warranties turns out to be false or the Buyer's consumption specified in section 31 materially change by an amount greater than twenty five percent (25%) as compared to past practice, or the supply group assigned by the EDU to Buyer's account(s) changes, Archer may, in addition to other Remedies provided for herein, adjust the Contract Price to account for the adverse change, but only to the extent that the adjustments are equal to the actual incremental costs resulting from the misinformation. Buyer understands that the EDU is required by PUC to communicate with Buyer following a notice of change of CRES provider to confirm the change was authorized and that such communication may indicate that Buyer may cancel or rescind the change within a certain period of time. Buyer acknowledges that a change to (or continuation of) Seller as CRES provider is authorized by this Agreement, that such notice does not afford Buyer an opportunity to rescind a duly executed supply agreement without penalty and that a cancellation or rescission in response to such notice would be an Event of Default by Buyer hereunder. Buyer further understands the EDU may charge switching fees to the customer upon the transfer of service to the CRES. Buyer has the right to request from the CRES provider, twice within a twelve month period, up to twenty-four months of the customer's payment history, to the extent it is available, without charge.

**29. Information Disclosure:** Buyer understands that by executing this Agreement, Seller will be provided certain basic information about Buyer by the EDU, including, but not limited to, account number, data about meter readings, rate class and electric usage, Buyer's address(s) and telephone number, and whether or not Buyer is on a budget billing plan or payment arrangement or as otherwise approved by the PUC Bureau of Consumer Services.

**30. Reserved for Future Use.**



ID: 1218

### 31. Contract Price, Terms, and Delivery Points

|                                 |                   |         |
|---------------------------------|-------------------|---------|
| Start Month:                    | June 2024         |         |
| End Month:                      | May 2026          |         |
| Duration:                       | 24 months         |         |
| Estimated Term Volume:          | 2,068,330         | kWh     |
| Volume Variance:                | Full Requirements |         |
| Product:                        | Fixed             |         |
| Price excluding capacity costs: | \$0.04979         | per kWh |

| EDU | Service Delivery Identifier | Service Address | City, State, & Zip |
|-----|-----------------------------|-----------------|--------------------|
| 1   | See Addendum A              |                 |                    |

**32. Notices:** Notices required or permitted to be given under this agreement shall be in writing; the addresses of the parties are as follows:

|                   | Notices to Buyer | Notices to Archer Energy, LLC |
|-------------------|------------------|-------------------------------|
| Attention:        |                  | Andy Mitrey, President        |
| Address:          |                  | 9777 Fairway Dr               |
| Address:          |                  |                               |
| City, State, Zip: |                  | Powell, OH 43065              |
| Telephone:        |                  | (614) 450-1861                |
| Fax:              |                  | (614) 360-3542                |
| E-mail:           |                  | amitrey@archerenergy.com      |
| Fed Tax ID:       |                  | 47-2060931                    |

**This agreement constitutes the entire agreement between the parties, notwithstanding any oral statements or representations of any brokers or sales representatives. Any amendment, change, or modification of this contract must be in writing and signed by both parties.**

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives have executed this agreement effective as of the Effective Date. This agreement will not become effective as to either Party unless and until executed by both Parties

"Buyer"

Village of Waynesville

"Archer"

Archer Energy, LLC

Signature

Signature

Andy Mitrey

Name

Name

President

Title

Title

Date

Date

Addendum A

|    | <b>EDU</b> | <b>Account Number</b> | <b>Service Address</b> | <b>City, State, &amp; Zip</b> | <b>LMP Rate</b> |
|----|------------|-----------------------|------------------------|-------------------------------|-----------------|
| 1  | AESDPL     | 3663824309            | N US 42 & Corwin Ave   | Waynesville, OH 45068         | See above       |
| 2  | AESDPL     | 6010569302            | 735 Dayton Rd          | Waynesville, OH 45068         | See above       |
| 3  | AESDPL     | 8380120755            | 5738 Lytle Rd          | Waynesville, OH 45068         | See above       |
| 4  | AESDPL     | 9115692031            | 101 S Main St          | Waynesville, OH 45068         | See above       |
| 5  | AESDPL     | 8728818272            | Siren 837 Dayton Rd    | Waynesville, OH 45068         | See above       |
| 6  | AESDPL     | 9587701747            | 434 S Main St          | Waynesville, OH 45068         | See above       |
| 7  | AESDPL     | 3706292239            | 88 S Main St           | Waynesville, OH 45068         | See above       |
| 8  | AESDPL     | 6621448565            | Water 434 S Main St    | Waynesville, OH 45068         | See above       |
| 9  | AESDPL     | 4750930417            | 300 S Main St          | Waynesville, OH 45068         | See above       |
| 10 | AESDPL     | 0896988349            | 411 S US RT 42         | Waynesville, OH 45068         | See above       |
| 11 | AESDPL     | 2401168555            | 1400 Lytle Rd          | Waynesville, OH 45068         | See above       |
| 12 | AESDPL     | 0211604342            |                        | ,                             | See above       |
| 13 | AESDPL     | 5725090785            | 5735 Lytle Rd          | Waynesville, OH 45068         | See above       |
| 14 | AESDPL     | 2093194211            | 5735 Lytle Rd          | Waynesville, OH 45068         | See above       |
| 15 | AESDPL     | 0000658000            |                        | ,                             | See above       |
| 16 | AESDPL     | 1170746011            | 8781 Ferry Rd          | Waynesville, OH 45068         | See above       |
| 17 | AESDPL     | 3360123209            | 114 S US Rt 42         | Waynesville, OH 45068         | See above       |