

The Board of Trustees of Colerain Township, County of Hamilton, Ohio, State of Ohio, met in regular session at 6 p.m., on the 26<sup>th</sup> day of June, 2018, at the Colerain Township Administration Building, 4200 Springdale Road, Cincinnati, Ohio 45251, with the following members present:

Greg Insko, Raj Rajagopal, Dan Unger

Mr. Insko introduced the following resolution and moved its adoption:

RESOLUTION NO.: 31 -18

**RESOLUTION AUTHORIZING ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AND DEMOLITION AGREEMENT WITH THE COLERAIN TOWNSHIP, HAMILTON COUNTY CIC, INC. AND DUKE ENERGY, OHIO**

**WHEREAS**, the Board of Trustees ("Board") has determined there exists a need to enter into an agreement with the Colerain Township, Hamilton County CIC, Inc. ("CIC") and Duke Energy, Ohio ("Duke") for the purchase, sale and demolition of certain property located in Colerain Township as fully set forth in the agreement which is attached hereto and incorporated herein by reference as Exhibit "A"; and

**WHEREAS**, the Board has determined that entering into this agreement will benefit the health, safety and welfare of the residents of Colerain Township and will promote economic development; and

**WHEREAS**, the Board is desirous of executing the Purchase and Sale and Demolition Agreement with the CIC and Duke;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of Colerain Township, Hamilton County, Ohio, as follows:

1. The Board hereby authorizes the Administrator to execute the Purchase and Sale and Demolition Agreement attached as Exhibit "A".
2. That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including §121.22 of the Ohio Revised Code.
3. That the Board by a majority vote hereby dispenses with the requirement that this Resolution be read on two separate days and hereby authorizes the adoption of the Resolution upon its first reading.
4. That this Resolution shall be effective at the earliest date allowed by law.

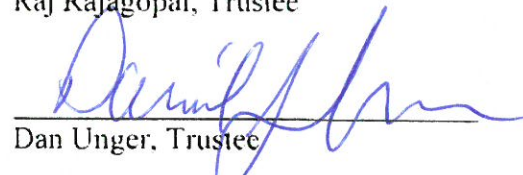
Mr. Unger seconded the Resolution, and the roll being called upon the question of its adoption, the vote resulted as follows:

Vote Record: Greg Insco aye, Raj Rajagopal absent, Dan Unger aye  
ADOPTED this 26<sup>th</sup> day of June, 2018.

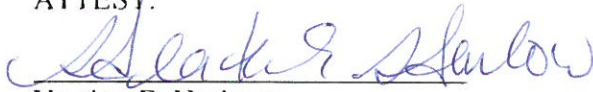
BOARD OF TRUSTEES

  
\_\_\_\_\_  
Greg Insco, Trustee

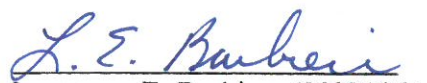
\_\_\_\_\_  
Raj Rajagopal, Trustee

  
\_\_\_\_\_  
Dan Unger, Trustee

ATTEST:

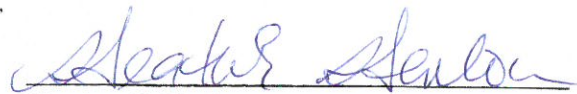
  
\_\_\_\_\_  
Heather E. Harlow,  
Fiscal Officer

Resolution prepared by and approved as to form:

  
\_\_\_\_\_  
Lawrence E. Barbieri (0027106)  
Colerain Township Law Director

AUTHENTICATION

This is to certify that this Resolution was duly passed and filed with the Colerain Township Fiscal Officer this 26<sup>th</sup> day of June, 2018.

  
\_\_\_\_\_  
Heather E. Harlow,  
Colerain Township Fiscal Officer



## PURCHASE AND SALE AND DEMOLITION AGREEMENT

THIS PURCHASE AND SALE AND DEMOLITION AGREEMENT ("Agreement") is entered into as of \_\_\_\_\_, 2018 between COLERAIN TOWNSHIP, a political subdivision of the State of Ohio ("Town"), COLERAIN TOWNSHIP, HAMILTON COUNTY CIC, INC., an Ohio not-for-profit corporation ("CIC"), and DUKE ENERGY OHIO, INC., an Ohio corporation ("Duke Energy").

A. On or about the date of this Agreement, a wholly owned subsidiary of Duke Energy, Tri-State Improvement Company, an Ohio corporation ("Tri-State") has entered into a Contract to Purchase Real Estate ("Fireside Agreement") with Fireside Hospitality, LLC, an Ohio limited liability company ("Fireside"), for the purchase of approximately 0.828 acres of land located at 7580 Colerain Avenue (Hamilton County Tax Parcel Numbers 510-0071-0217-00 and 510-0071-0473-00), in the Township of Colerain, County of Hamilton, State of Ohio, which land is more particularly described in the Fireside Contract ("Fireside Property").

B. As more particularly described below, CIC shall (i) take assignment of Tri-State's obligations under the Fireside Agreement and purchase the Fireside Property, (ii) demolish the improvements on the Fireside Property and restore the Fireside Property as required by this Agreement, and (iii) convey the Fireside Property to Duke Energy as provided below.

C. Town is the owner of approximately 0.36 acres of land located at 7560 Colerain Avenue, Cincinnati, Ohio 45239 (Hamilton County Tax Parcel Number 510-0071-0227-00), as shown on Exhibit A attached hereto and incorporated herein, together with all privileges, rights and easements appurtenant to that land ("Police Station Property"). CIC is the designated community improvement corporation for Town. As more particularly described below, Town agrees that it shall convey the Police Station Property to CIC. As more particularly described below, CIC agrees that it shall (i) obtain ownership of the Police Station Property from Town, (ii) demolish the improvements on the Police Station Property and restore the Police Station Property as required by this Agreement, and (ii) convey the Police Station Property to Duke Energy as provided below.

D. As used in this Agreement, the term "Property" shall mean the Fireside Property and the Police Station Property, collectively.

E. Town, CIC and Duke Energy are executing this Agreement to evidence their mutual understanding regarding the transactions and obligations contemplated above.

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Purchase Price for Acquisition of the Property.** Subject to the terms of this Agreement, Duke Energy will pay a total of Four Hundred Thousand and No/100 Dollars (\$400,000.00) (the "Duke Energy Purchase Price") for its purchase of the Fireside Property and the Police Station Property. Any costs in excess of the Duke Energy Purchase Price under the Fireside Agreement or otherwise shall be paid directly by CIC and/or Town.



2. **Assignment of Fireside Agreement.** Any capitalized terms not defined in this Agreement and used in this **Section 2** shall have the meaning ascribed to them in the Fireside Agreement. Upon receipt of a written request from Duke Energy and prior to Closing, CIC agrees to take assignment of Tri-State's obligations under the Fireside Agreement in the form of the Assignment of Contract to Purchase Real Estate attached hereto as **Exhibit B**. CIC agrees to fully perform the obligations of Tri-State under the Fireside Agreement. Prior to Closing, Duke Energy will advance the Duke Energy Purchase Price to the Closing Agent to be applied towards the Purchase Price at Closing. If required by Duke Energy at Duke Energy's sole discretion, upon Duke Energy advancing the Duke Energy Purchase Price, Town or CIC (whichever entity owns the relevant portion of the Property at the time) shall execute and deliver to Duke Energy a promissory note and mortgage or deed of trust in favor of Duke Energy to be recorded against the Property in form reasonably acceptable to Duke Energy. The promissory note and the mortgage or deed of trust shall secure Duke Energy's advancement of the Duke Energy Purchase Price and the obligations under this Agreement.
3. **Demolition Work.** By no later than November 30, 2018, or sixty (60) days from the transfer of the Fireside Property to CIC at the Closing (as defined in the Fireside Agreement), whichever is later ("**Demolition Deadline**"), CIC, at CIC's sole cost and expense, shall demolish and remove all of improvements located on both the Fireside Property and the Police Station Property, including, without limitation, pavement, structures, and above ground and below ground improvements, and restore the Property to a cleared, graded and compacted state ready for construction (such demolition, removal and restoration are collectively called the "**Demolition**"). CIC agrees to secure all permits and approvals required by the applicable governmental authorities to perform the Demolition, and to perform the Demolition in accordance with any plans and specifications that are acceptable to Duke Energy.
4. **Acquisition of the Police Station Property by CIC.** Within ten (10) days after the date of this Agreement, Town and CIC agree to effectuate a conveyance of the Police Station Property to CIC.
5. **Acquisition of Police Station Property and Fireside Property by Duke Energy.** Simultaneously with the execution of this Agreement, CIC agrees to enter into a Contract to Purchase Real Estate with Duke Energy for the sale of both the Fireside Property and the Police Station Property to Duke Energy in the condition contemplated in this Agreement and in the form of attached hereto as **Exhibit C** (the "**CIC/Duke Energy Purchase Agreement**"). CIC also agrees that, prior to the transfer of the Fireside Property to Duke Energy, it will take the steps necessary in order to obtain a dismissal, with prejudice, of the case number 17 CV 09868, presently pending in the Municipal Court of Hamilton County, Ohio. The Duke Energy Purchase Price shall serve as consideration for the purchase of both the Fireside Property and the Police Station Property.
6. **Self-Help.** If CIC fails to complete the Demolition by the date that is thirty (30) days following the Demolition Deadline (each being a "**Demolition Default**"), then Duke Energy will have all rights and remedies at law and/or equity as a result of such failure. In addition, if a Demolition Default occurs, Duke Energy may (but shall have no obligation to) perform and complete all or a portion of the Demolition ("**Self-Help Remedy**"). Duke



Energy may exercise the Self-Help Remedy by (a) electing to perform the remainder of the Demolition with contractors of its own choosing, or (b) electing to assume any contracts with contractors selected by CIC to perform the Demolition. All contracts with contractors that CIC enters into for the Demolition shall contain (i) a clause allowing Duke Energy to elect to assume such contracts upon exercise of the Self-Help Remedy (and no consent by CIC shall be required to effect such assignment), and (ii) a clause providing for the automatic termination of such contracts if Duke Energy exercises the Self-Help Remedy and elects to perform the remainder of the Demolition with contractors of its own choosing. CIC agrees to deliver copies of such contracts to Duke Energy immediately upon request. Prior to exercising the Self-Help Remedy, Duke Energy shall provide written notice to CIC of the alleged default and provide CIC a ten (10) day period to cure such alleged default. If Duke Energy exercises the Self-Help Remedy, CIC shall reimburse Duke Energy for the costs of performing the remainder of the Demolition within thirty (30) days after written demand by Duke Energy, accompanied by copies of supporting documentation. In order to permit Duke Energy to perform any of the actions contemplated by this Section, CIC grants and conveys an easement to Duke Energy and its successors and assigns for entry upon the Property and for the performance of such work.

7. **Covenant Against Liens.** CIC shall promptly pay and discharge on or before the due date any claim or obligation for labor or materials furnished at the direction of CIC in connection with CIC's exercise of its rights under this Agreement, which if not paid or discharged would result in a lien on the Property. If any such claim or obligation is not promptly paid or discharged, then, in addition to its other rights and remedies at law or in equity, Duke Energy shall have the right (but not the obligation) to pay and discharge such obligation, in which event Duke Energy shall then be subrogated to the rights of the person or entity for whom such payment was made and shall be vested with all the rights and remedies of such person or entity.

8. **Waiver; Indemnity.**

(a) CIC acknowledges that the exercise of the obligations of CIC under this Agreement involves risks, including death, personal injury, property loss and property damage, and CIC hereby agrees to accept and assume all risks. CIC shall not hold Duke Energy, its shareholders, officers, agents, employees, affiliates, successors and assigns (collectively, "**Duke Energy Related Parties**"), liable for any loss, injury or damage which may occur to CIC or its property, unless such loss, injury or damage or any claims related thereto are the result of Duke Energy's or the Duke Energy Related Parties' negligent or intentional actions or omissions. This **Section 8(a)** shall survive the expiration or earlier termination of this Agreement.

(b) To the extent permitted by law, CIC agrees to indemnify, defend and hold harmless Duke Energy and the Duke Energy Related Parties from and against any liens, claims of lien, losses, fines, penalties, liabilities, claims, demands, causes of action, costs and expenses (including reasonable attorneys' and consultants' fees) resulting from (a) any liens or claims filed by any material supplier, laborer or contractor hired by CIC, against the Property pursuant to ORC Section 1311; (b) the exercise of rights under this Agreement by CIC, its agents, invitees, contractors, employees or representatives; or (c) the Release (as defined in **Section 10** below) by CIC or CIC's agents, invitees, contractors, employees or representatives of any Hazardous

Materials (as defined in **Section 10** below) upon or about the Property. This **Section 8(b)** shall survive the expiration or earlier termination of this Agreement.

9. **Insurance.** During any period that CIC is performing work on the Property, CIC shall maintain commercial general liability insurance in an amount of not less than \$2,000,000.00 per occurrence and aggregate limits of not less than \$5,000,000.00, commercial auto liability insurance and worker's compensation/employer's liability insurance. All liability policies required by this **Section 9** shall: (a) be issued by insurers that are authorized to issue the applicable insurance in Ohio; (b) name Duke Energy as an additional insured; (c) contain a provision by which the insurer will endeavor to give Duke Energy at least thirty (30) days' prior written notice before making any material change in the nature or extent of the coverage provided under such policies and/or canceling or terminating such policies; and (d) contain a provision by which CIC's policies are primary to and non-contributory with any coverage that Duke Energy may have in effect. Prior to performing work on the Property, CIC shall provide Duke Energy with a certificate evidencing the policies required by this **Section 9**.
10. **Environmental Matters.** CIC shall not cause or permit the Release of any Hazardous Materials at the Property. CIC, at CIC's expense, shall comply, and ensure compliance, with all Environmental Laws in connection with the performance of the Demolition. CIC shall immediately (and in any event within 24 hours) notify Duke Energy in writing of: (a) any violation, or suspected violation, of any Environmental Law; (b) any proceeding, investigation or inquiry of which CIC has been notified with respect to Hazardous Materials at the Property; and (c) any Release of Hazardous Materials at the Property. This **Section 10** shall survive the expiration or earlier termination of this Agreement. "**Release**" means the storage, treatment, generation, manufacturing, refinement, transport, production, use, processing, disposal, handling, escape, discharge, leaking, leaching, dumping, emitting, seeping or other release. "**Hazardous Materials**" means any substance, material, product, derivative, compound, mixture, mineral, chemical, waste, gas or pollutant, in each case whether naturally occurring, man-made or the by-product of any process, that is regulated by, forms the basis of liability under, or is defined as a contaminant, pollutant, dangerous, designated or controlled substance product, solid or hazardous waste, hazardous substance or toxic substance under, any Environmental Laws, including gasoline or any other petroleum product or byproduct or fractions thereof, any form of natural gas, asbestos, polychlorinated biphenyls, radon or other radioactive substances, infectious, carcinogenic, mutagenic or etiologic agents, pesticides, defoliants, explosives, flammables, corrosives, urea formaldehyde, alcohols, chemical solvents or any other material or substance which constitutes a health, safety or environmental hazard to any person or the environment. "**Environmental Laws**" means all present and future federal, state and local laws, statutes, regulations, rules, ordinances and common law, and all judgments, decrees, orders, agreements or permits, issued, promulgated, approved or entered thereunder by any government authority relating to pollution or Hazardous Materials or protection of human health or the environment, including the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended.
11. **Default.** In the event CIC or Town fails to perform any obligation under this Agreement and such party does not correct such failure within ten (10) days after receiving written notice from Duke Energy, Duke Energy shall be entitled to (a) terminate this Agreement



upon written notice to the defaulting party(ies), whereupon the Duke Energy Purchase Price shall be immediately refunded to Duke Energy; (b) seek specific performance of this Agreement by the defaulting party(ies) in a court of equity and recover court costs and reasonable attorneys' fees if it prevails in such action against the defaulting party(ies); or (c) exercise any other remedies available to Duke Energy at law or in equity. In the event Duke Energy fails to perform any obligation of Duke Energy under this Agreement, and Duke Energy does not correct such failure within ten (10) days after receiving written notice from CIC, CIC, as its sole and exclusive remedy, shall be entitled to terminate this Agreement upon written notice to Duke Energy and to pursue an action for actual, direct damages against Duke Energy, not to exceed One Hundred Thousand and No/100 Dollars (\$100,000.00). Upon CIC terminating this Agreement in accordance with this Section, CIC shall promptly return the Duke Energy Purchase Price to Duke Energy, and neither Duke Energy nor CIC will have any further rights or obligations under this Agreement. Any breach or default by CIC under this Agreement, the Fireside Agreement, the CIC/Duke Energy Purchase Agreement, or any other agreement contemplated herein shall also constitute a default under all such other agreements. The exercise by CIC of the remedy contemplated herein upon a default by Duke Energy under this Agreement shall be deemed to also satisfy CIC's remedy in the event of a default by Duke Energy under the CIC/Duke Energy Purchase Agreement. The parties acknowledge that Duke Energy has no obligations to Town under this Agreement, the Fireside Agreement, the CIC/Duke Energy Agreement, or any other agreements contemplated herein, and accordingly, Town shall have no right to seek any remedies against Duke Energy for Duke Energy's failure to perform under this Agreement the Fireside Agreement, the CIC/Duke Energy Agreement, or any other agreements contemplated herein.

12. **Recitals and Exhibits.** All recitals and exhibits shall be incorporated herein by reference as if set out herein in full.
13. **Governing Law.** This Agreement shall be governed by Ohio law.
14. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
15. **Severability.** If any term, covenant or condition of this Agreement or the application thereof to either party shall be held to be invalid or unenforceable, then the remaining terms, covenants and conditions of this Agreement shall not be affected thereby, and shall be enforceable to the fullest extent permitted by law.
16. **Notice.** Any notice contemplated by this Agreement must be in writing, addressed as set forth below and shall be either (a) sent by United States Mail, postage prepaid, registered or certified mail, return receipt requested, in which case the notice will be deemed delivered two business days after being deposited in the United States mail; (b) sent by overnight delivery using a nationally recognized overnight courier, in which case the notice shall be deemed delivered one business day after deposit with the courier; (c) sent by facsimile or e-mail; provided that no later than the next business day after the facsimile or e-mail is sent, a hard copy of the facsimile or e-mail transmission is sent in the manner set forth in (a), (b) or (d) of this Section; or (d) sent by personal delivery, in which case the notice will

be deemed delivered on the date of delivery. Either party may change its address by giving the other party five days advance written notice of that change.

If to Town: Colerain Township

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

If to CIC: Colerain Township, Hamilton County CIC, Inc.

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

If to Duke Energy: Duke Energy Ohio, Inc.  
Data & Document Management  
550 South Tryon St. DEC 22A  
Charlotte, NC 28202  
Attn: F. Clarke Hobson, Jr.  
Facsimile: (704) 382-4119  
Email: [clarke.hobson@duke-energy.com](mailto:clarke.hobson@duke-energy.com)

with copy to: Duke Energy Ohio, Inc.  
WP-914 1000 E. Main Street  
Plainfield, IN 46168  
Attn: John B. Scheidler, Esq.  
Facsimile: (317) 838-6001  
Email: [john.scheidler@duke-energy.com](mailto:john.scheidler@duke-energy.com)

with copy to: Parker Poe Adams & Bernstein LLP  
Three Wells Fargo Center  
401 S. Tryon Street, Suite 3000  
Charlotte, NC 28202  
Attn: A. Grant Whitney, Esq.  
Facsimile: 704.334.4706  
Email: [grantwhitney@parkerpoe.com](mailto:grantwhitney@parkerpoe.com)

17. **Further Assurances.** Town and CIC shall perform any additional acts, and shall execute and deliver any additional documents, as may reasonably be required to effectuate the terms and transactions as contemplated by this Agreement.



18. **Memorandum.** Upon request by Duke Energy, Town and CIC shall execute and deliver to Duke Energy a memorandum of this Agreement in form reasonably acceptable to Duke Energy. Duke Energy may record, at its expense, the memorandum in the Hamilton County Recorder's Office.
19. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties with respect to the activities contemplated by this Agreement, and all prior agreements or understandings, whether oral or written, are merged herein.
20. **Amendment.** This Agreement may not be amended without the prior written approval of Duke Energy, CIC and Town.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement as of the day and year first above written.

**TOWN:**

**COLERAIN TOWNSHIP,**  
a political subdivision of the State of Ohio

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

Name: \_\_\_\_\_

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

**CIC:**

**COLERAIN TOWNSHIP, HAMILTON  
COUNTY CIC, INC.,** an Ohio not-for-profit corporation

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

Name: \_\_\_\_\_

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

**DUKE ENERGY:**

**DUKE ENERGY OHIO, INC.,**  
an Ohio corporation

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

Name: Martha S. Purser

Title: Director Real Estate Strategy &  
Transactions





**Exhibit B**

**Assignment of Contract to Purchase Real Estate**

**ASSIGNMENT OF CONTRACT TO PURCHASE REAL ESTATE**

This Assignment of Contract to Purchase Real Estate ("**Assignment**") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018 ("**Effective Date**"), by **TRI-STATE IMPROVEMENT COMPANY**, an Ohio corporation ("**Assignor**"), and **COLERAIN TOWNSHIP, HAMILTON COUNTY CIC, INC.**, an Ohio not-for-profit corporation ("**Assignee**").

**A.** Assignor and Fireside Hospitality, LLC, an Ohio limited liability company ("**Seller**"), entered into the Contract to Purchase Real Estate dated \_\_\_\_\_, 2018 ("**Contract**"), for the purchase by Assignor of that certain real property containing approximately 0.828 acres of land, together with all rights, easements, privileges, hereditaments, improvements, and appurtenances pertaining thereto, located at 7580 Colerain Avenue (Hamilton County Tax Parcel Numbers 510-0071-0217-00 and 510-0071-0473-00), in the Township of Colerain, County of Hamilton, State of Ohio, as more particularly described on the attached **Exhibit A** which is incorporated herein by reference ("**Property**").

**B.** Assignor desires to assign all of its right, title and interest in and to the Contract to Assignee, and Assignee desires to accept such assignment and to assume the obligations of Assignor under the Contract, all on the terms and conditions as set forth in this Assignment.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment and Assumption of Contract.** As of the Effective Date, (a) Assignor hereby assigns to Assignee all of Assignor's right, title and interest, in and to the Contract, and (b) Assignee hereby accepts the foregoing assignment and assumes and agrees to perform and discharge all of the obligations of Assignor under the Contract.

2. **Miscellaneous.** If this Assignment is executed in counterparts, then all of those counterparts together constitute one and the same instrument. An executed counterpart delivered by facsimile or e-mail constitutes an original. This Assignment contains the entire understanding and agreement between Assignor and Assignee and all prior or contemporaneous oral or written agreements or instruments are merged herein. This Assignment is binding upon the parties, their respective successors, and assigns. This Assignment may not be amended except by an instrument in writing executed by Assignor and Assignee. This Assignment is governed by Ohio law.



[Signature Page Follows]

Assignor and Assignee have caused this Assignment to be executed as of the Effective Date.

**Assignor:**

**Tri-State Improvement Company,**  
an Ohio corporation

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

Name: \_\_\_\_\_

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

**Assignee:**

**Colerain Township, Hamilton County CIC,**  
**Inc.,** an Ohio not-for-profit corporation

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

Name: \_\_\_\_\_

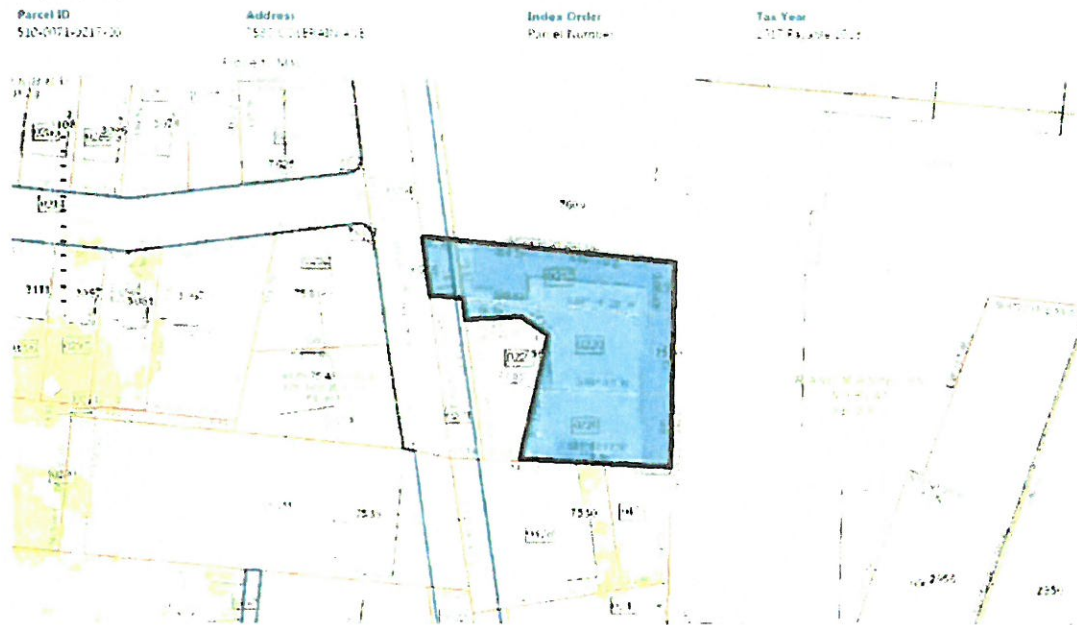
Title: \_\_\_\_\_

## Exhibit A to Assignment of Contract to Purchase Real Estate

Approximately 0.828 acres of real property located in Hamilton County, Ohio, and Hamilton County Auditor Tax Parcel Nos. 510-0071-0217-00 and 510-0071-0473-00. The Property is depicted below.

### Dusty Rhodes, Hamilton County Auditor Property Report

generated on 2/20/2018 2:04:10 PM EST



### Dusty Rhodes, Hamilton County Auditor Property Report

generated on 2/20/2018 2:05:10 PM EST

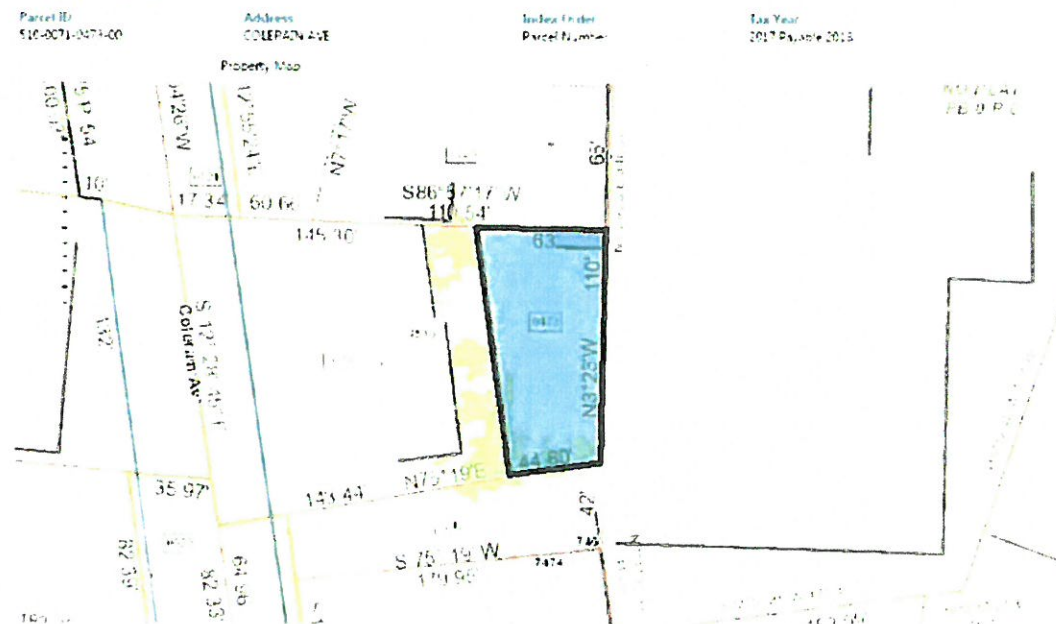


Exhibit C

Contract to Purchase Real Estate

[See Attached]



STATE OF OHIO

COUNTY OF HAMILTON

Site No. \_\_\_\_\_

Land Unit \_\_\_\_\_

Project No. \_\_\_\_\_

**CONTRACT TO PURCHASE REAL ESTATE**

This **CONTRACT TO PURCHASE REAL ESTATE** ("**Contract**") is made as of \_\_\_\_\_, 2018 ("**Effective Date**"), by and between **COLERAIN TOWNSHIP, HAMILTON COUNTY CIC, INC.**, an Ohio not-for-profit corporation, with an address of \_\_\_\_\_ ("**Seller**"), and **DUKE ENERGY OHIO, INC.**, an Ohio corporation, with an address of 550 South Tryon Street, Real Estate Services DEC22A, Charlotte, North Carolina 28202 ("**Purchaser**").

**WITNESSETH:**

That for and in consideration of the following mutual covenants, agreements, and undertakings, Seller agrees to sell to Purchaser and Purchaser agrees to buy from Seller, a fee simple interest in (i) that certain real property containing approximately 0.828 acres of land, together with all rights, easements, privileges, hereditaments, improvements, and appurtenances pertaining thereto, located at 7580 Colerain Avenue (Hamilton County Tax Parcel Numbers 510-0071-0217-00 and 510-0071-0473-00), in the City of Cincinnati, County of Hamilton, State of Ohio, as more particularly described on the attached **Exhibit "A"**, which is incorporated herein by reference ("**Fireside Property**"), and (ii) that certain real property containing approximately 0.36 acres of land, together with all rights, easements, privileges, hereditaments, improvements, and appurtenances pertaining thereto, located at 7560 Colerain Avenue (Hamilton County Tax Parcel Number 510-0071-0227-00), in the Township of Colerain, County of Hamilton, State of Ohio, as more particularly described on the attached **Exhibit "B"**, which is incorporated herein by reference ("**Police Station Property**"). The "**Fireside Property**" and the "**Police Station Property**" shall be collectively referred to in this Contract as the "**Property**".

1. **DEMOLITION AGREEMENT**. On or about the Effective Date, Colerain Township, a political subdivision of the State of Ohio ("**Town**"), Purchaser and Seller have entered into that Purchase and Sale and Demolition Agreement ("**Demolition Agreement**"), which Demolition Agreement is incorporated herein by reference. Purchaser and Seller agree to perform their respective obligations under the Demolition Agreement.
2. **FIRESIDE AGREEMENT**. On or about the Effective Date, Seller's affiliate, Tri-State Improvement company, an Ohio corporation ("**Tri-State**"), has entered into a Contract to Purchase Real Estate ("**Fireside Agreement**") with Fireside Hospitality, LLC, an Ohio limited liability company ("**Fireside**"), for the purchase of the Fireside Property. Pursuant to the Demolition Agreement, Seller shall take assignment of the Fireside Agreement and assume all of the obligations under the Fireside Agreement prior to Closing (as defined in the Fireside Agreement). Further, pursuant to the Demolition Agreement, Seller shall acquire title to the Police Station Property within ten (10) days after the Effective Date. The parties expressly agree that Seller's acquisition of the Fireside Property pursuant to

the Fireside Agreement and the Demolition Agreement, and Seller's acquisition of the Police Station Property pursuant to the Demolition Agreement, shall be conditions to Closing (as defined in **Section 10** below).

3. **PURCHASE PRICE**: The total purchase price for the Property ("**Purchase Price**") is the Duke Energy Purchase Price (as defined in the Demolition Agreement) in the amount of Four Hundred Thousand and No/100 U.S. Dollars (\$400,000.00) and will be paid as follows:

(a) Pursuant to the Demolition Agreement, prior to Closing (as defined in **Section 10** below), Purchaser will have paid the Duke Energy Purchase Price (as defined in the Demolition Agreement) as full consideration for the purchase of the Property. Therefore, at Closing, Purchaser will receive a credit in the amount of the Duke Energy Purchase Price (as defined in the Demolition Agreement) for advancement of such payment. Any further adjustments for prorations and credits required to be made in accordance with this Contract shall be paid in cash, or its equivalent, at Closing (as defined in **Section 10** below).

4. **SELLER'S DELIVERIES**: Within two (2) days after the Effective Date, Seller shall deliver to Purchaser the following documents and information with respect to the Property (collectively, "**Property Documents**"): previously issued title policies or reports; surveys of the Property; third party reports including, but not limited to, environmental assessments, engineering and hazardous/toxic substance reviews; information pertaining to any pending or threatened litigation involving any portion of the Property; all service and maintenance contracts, equipment leases, utility agreements, and other agreements relating to, or affecting any portion of the Property; real estate tax bills; copies of all pending agreements that will be binding on Purchaser after Closing; information regarding the zoning of the Property; and any other information requested by Purchaser in Seller's possession.

5. **PURCHASER'S CLOSING CONTINGENCIES**: Purchaser's obligation to buy the Property from Seller at Closing, is contingent upon the following (collectively, "**Purchaser's Contingencies**"):

(a) Purchaser shall have obtained any and all requisite approvals, including but not limited to, any internal and regulatory approvals, for the development and use of the Property by Purchaser as determined by Purchaser in its sole discretion ("**Intended Use**").

(b) Purchaser shall have obtained approval of the rezoning the Property from the applicable governmental authorities to allow for the use of the Property for the Intended Use.

Seller shall cooperate with Purchaser's efforts to obtain the approvals, rezoning and permits referenced in Paragraphs 5(a) and 3(b) (collectively, the "**Required Approvals**"), including allowing applications to be made in Seller's name. Purchaser shall have full authority and discretion to make all decisions required in connection with the Required Approvals. Seller shall execute all reasonable and customary documents and petitions required to obtain the Required Approvals. For the purposes of this Contract, no Required Approval shall be considered obtained by Purchaser until the application therefor has been finally approved by the applicable governmental or other authority subject only to such terms and conditions as are reasonably acceptable to Purchaser, and all periods (if any) for the filing of any appeal or challenge to such

approval have expired without any appeal or challenge having been filed, or if an appeal or challenge is filed, until that appeal or challenge has been finally resolved in a manner acceptable to Purchaser.

(c) Seller shall have (i) acquired the Fireside Property pursuant to the Fireside Agreement and the Demolition Agreement, (ii) acquired the Police Station Property pursuant to the Demolition Agreement, and (iii) performed its obligations under the Demolition Agreement.

6. **POSSESSION:** Exclusive possession of the Property free and clear of occupancy by all persons shall be delivered to Purchaser upon Seller's execution and delivery of the Deed (as defined below) to Purchaser at Closing. Seller shall deliver the Property to Purchaser in the condition required by the Demolition Agreement. As long as this Contract is in effect, Seller shall not encumber the Property in any way including but not limited to, granting easements and mortgages (except as to mortgages in favor of Purchaser as contemplated in the Demolition Agreement).

7. **PURCHASER PRE-CLOSING INVESTIGATIONS:** Purchaser shall have a period of time beginning on the Effective Date and concluding at 11:59 P.M. (EST) on the date that is fifteen (15) days after the Demolition Deadline (as defined in the Demolition Agreement) ("**Investigation Period**"), to (a) conduct all title reviews, surveys, investigations, studies, inspections, and testing of the Property (including environmental audits and testing, excavations, core drilling and subsurface investigations) at the sole discretion and cost and expense of Purchaser ("**Investigations**"), and (b) determine in Purchaser's sole judgment whether Purchaser desires to purchase the Property. With respect to Purchaser's Investigations pursuant to this Paragraph, Purchaser shall defend, release, indemnify, and hold harmless Seller from and against any and all costs, liabilities, claims, and actions including reasonable legal fees and court costs, arising from, caused by or resulting from, the action or inaction, negligent or otherwise, of Purchaser or an agent of Purchaser, except to the extent caused in whole or part by Seller or an agent of Seller. The obligations set forth in the preceding sentence shall survive the termination of this Contract and the Closing. During the Investigation Period, Purchaser may obtain (i) an ALTA/ACSM Land Title survey prepared by a land surveyor registered in the state where the Property is located ("**Survey**") and (ii) a commitment for an owner's policy of title insurance at a Title Insurance Company of Purchaser's election and upon terms and conditions acceptable to Purchaser ("**Title Commitment**").

Any title exceptions appearing in the Title Commitment that Purchaser does not object to in writing by the end of the Investigation Period will be deemed permitted exceptions to Seller's title (those exceptions not objected to, together with any other matters approved by Purchaser in writing, are called "**Permitted Exceptions**"). Each (a) matter affecting title to the Property that arises after the Effective Date and that is not approved in writing by Purchaser; and (b) financial encumbrance such as a mortgage, deed to secure debt, deed of trust, attachment, judgment, lien for delinquent taxes, mechanic's or materialman's lien, or other monetary lien outstanding against any part of the Property (each a "**Financial Encumbrance**," collectively, the "**Financial Encumbrances**") will be deemed an "**Unpermitted Exception**". Seller shall cure (by removing from or satisfying on the public record) all Unpermitted Exceptions by Closing. Purchaser's failure to notify Seller of any Unpermitted Exception will not relieve Seller of its obligation to cure all Unpermitted Exceptions by Closing. In addition, if any Financial Encumbrance encumbers: (i) any easement or right of way appurtenant to the Property and reasonably necessary for the use of the Property;

or (ii) a declaration of restrictions or similar document which benefits the Property, then Seller shall cause that Financial Encumbrance to be subordinated to the instruments referred to in (i) and (ii) above by Closing.

Prior to the expiration of the Investigation Period, should Purchaser desire more time to conduct the Investigations, Purchaser may extend the Inspection Period for one additional period of thirty (30) days ("**Extension Period**") by delivering written notice to Seller of such extension on or before the final day of the Investigation Period. Upon written notice to Seller on or before the end of the Investigation Period or, if applicable, the Extension Period, Purchaser shall have the right in its sole discretion, to terminate this Contract whereupon the Duke Energy Purchase Price (as defined in the Demolition Agreement) shall be immediately refunded to Purchaser, and, except as expressly set forth herein, neither party will have any further rights or obligations to the other under this Contract. If the parties proceed to Closing, the Duke Energy Purchase Price (as defined in the Demolition Agreement) shall be credited to Purchaser on the Settlement Statement (as defined herein below).

8. **REAL ESTATE TAXES AND ASSESSMENTS**: All real estate taxes and assessments for the Property shall be prorated to the date of Closing. Purchaser shall receive a credit at the Closing on the Purchase Price for Seller's portion of the real estate taxes and assessments not yet due and payable, and Seller shall have no further responsibility for the payment of those taxes and assessments for the Property.

9. **DEED**: At Closing, Seller shall deliver to Purchaser, a fully executed general warranty deed (a) conveying good and marketable fee simple title to the Property to Purchaser, (b) prepared by or at the request of counsel for Purchaser, and (c) if Purchaser obtains the Survey, using the legal description for the Property prepared by such land surveyor ("**Deed**"). If Purchaser obtains a new legal description for the Property, Purchaser, at its sole cost and with Seller's cooperation, shall be responsible for obtaining approval to use the same from Hamilton County prior to Closing.

10. **CLOSING**: If Purchaser has not terminated this Contract by the end of the Investigation Period or, if applicable, the Extension Period, as provided herein, a closing shall occur within thirty (30) days from the end of the Investigation Period or, if applicable, the Extension Period ("**Closing**"). The Closing costs charged by Closing Agent shall be paid by Purchaser. At the Closing, Seller shall pay the cost of any documentary or revenue stamps required to be paid in connection with the recording of the Deed and for the costs of preparing and recording any instruments required by Seller, its attorney(s), or its lender. Purchaser shall pay the cost of preparing and recording the Deed, and for the preparation and recording of any and all instruments required by Purchaser, its attorney(s), or its lender. Both parties shall execute any document at the Closing that may be reasonably requested by Closing Agent or Purchaser's Title Insurance Company to effectuate the Closing. Purchaser shall have the right to obtain an insured closing from Closing Agent with cost of such insured closing being paid by Purchaser. Both parties shall comply with the following procedures relating to the Closing:

(a) Seller shall execute, acknowledge, and deliver to Purchaser the Deed conveying the Property, as described in the Survey (if applicable), to Purchaser, subject only to the Permitted Exceptions, which shall be in form for recording.



(b) Seller shall execute, acknowledge, and deliver to Purchaser an Affidavit of Title in the form that is reasonably satisfactory to the Title Insurance Company which, together with the Survey, enables the Title Insurance Company to delete the Schedule B - Section I requirements.

(c) Seller shall deliver to Purchaser, in form prepared by Closing Agent and reasonably satisfactory to Purchaser, a Non-Foreign Affidavit complying with Internal Revenue Code Section 1445. If Seller fails to deliver such Affidavit to Purchaser at Closing, Purchaser may take all steps required or permitted by law, including without limitation, withholding from the funds due Seller at Closing ten percent (10%) of the total Purchase Price and paying this sum to the IRS.

(d) Seller shall deliver to the Title Company and Purchaser copies of Seller's current resolution and incumbency certificate or similar authority documents authorizing the sale of the Property to Purchaser pursuant to the terms of this Contract.

(e) Purchaser and Seller shall execute and deliver to each other and the Title Insurance Company a Settlement Statement ("**Settlement Statement**") in a form approved by Purchaser, Seller, and the Title Insurance Company.

(f) Purchaser and Seller shall provide the Title Insurance Company with such information as may be required to report proceeds from the real estate sale on a Form 1099-S.

(g) Purchaser shall deliver or cause to be delivered to Seller a certified or cashier's check payable to Seller or title company check or wire transfer in the amount of costs due by Purchaser (if any) as provided in this Contract.

**11. ASSIGNMENT:** Seller shall not have the right to assign this Contract to a third party. Purchaser shall have the right to assign this Contract in whole or in part without the prior written consent of Seller to any third party in its sole discretion at or before Closing. Upon any assignment by Purchaser, Purchaser shall have no further obligation to Seller hereunder and shall be released of any and all liability hereunder.

**12. DEFAULT AND REMEDIES:** In the event Seller fails to perform any obligation of Seller under this Contract and Seller does not correct such failure within twenty (20) days after receiving written notice from Purchaser, Purchaser shall be entitled to (a) terminate this Contract upon written notice to Seller, whereupon the Duke Energy Purchase Price (as defined in the Demolition Agreement) shall be immediately refunded to Purchaser, (b) seek specific performance of this Contract by Seller in a court of equity and recover court costs and reasonable attorneys' fees if it prevails in such action against Seller, or (c) exercise any other remedies available to Purchaser at law or in equity. In the event Purchaser fails to perform any obligation of Purchaser under this Contract, and Purchaser does not correct such failure within twenty (20) days after receiving written notice from Seller, Seller, as its sole and exclusive remedy, shall be entitled to terminate this Contract upon written notice to Purchaser and to pursue an action for actual, direct damages against Purchaser, not to exceed One Hundred Thousand and No/100 Dollars (\$100,000.00). Upon Seller terminating this Contract in accordance with this Section, Seller shall promptly return the Duke Energy Purchase Price (as defined in the Demolition Agreement) to Purchaser, and neither Purchaser nor Seller will have any further rights or obligations under this Contract. Any breach or default by Seller under this Contract, the Fireside Agreement or the Demolition Agreement shall also constitute a default under all such other agreements. The exercise

by Seller of the remedy contemplated herein upon a default by Purchaser under this Contract shall be deemed to also satisfy Seller's remedy in the event of a default by Purchaser under the Demolition Agreement.

13. **TAX-DEFERRED EXCHANGE OPTION:** Each party agrees to cooperate with the other party in all reasonable respects in the event either or both parties desire to effectuate a tax – deferred exchange of the Property in compliance with the provisions of Internal Revenue Code; provided, the requesting party shall pay any expenses reasonably incurred by the other party in cooperating with the request.

14. **NOTICES:** Any notice, request, or other communication required or permitted to be given hereunder (a) shall be in writing; (b) shall be either (i) delivered by hand, (ii) mailed by United States certified mail, return receipt requested, postage prepaid, (iii) sent by a reputable, national overnight delivery service (e.g., Federal Express), (iv) emailed in PDF format (with the original being sent by one of the other permitted means provided in this paragraph), or (v) sent by facsimile (with the original being sent by one of the other permitted means provided in this paragraph); and (c) shall be addressed to each party at the applicable address set forth below. Any such notice, request, or other communication shall be considered given or delivered, as the case may be, on the date of hand delivery (if delivered by hand), on the third day following deposit in the United States mail (if sent by United States certified mail, return receipt requested), on the next business day following deposit with an overnight delivery service with instructions to deliver on the next day or on the next business day, or on the day sent by email or facsimile. Rejection or other refusal to accept, or inability, to deliver because of a changed address of which no notice was given to the other party, shall not affect the constructive receipt of the notice, request, or other communication as provided herein. By giving at least ten (10) days prior written notice thereof, Seller or Purchaser may from time to time and at any time, change its address.

**NOTICE TO PURCHASER:**

Duke Energy Ohio, Inc.  
Data & Document Management  
550 South Tryon St. DEC 22A  
Charlotte, NC 28202  
Attn: F. Clarke Hobson, Jr.  
Facsimile: (704) 382-4119  
Email: [clarke.hobson@duke-energy.com](mailto:clarke.hobson@duke-energy.com)

with copy to:

Duke Energy Ohio, Inc.  
WP-914 1000 E. Main Street  
Plainfield, IN 46168  
Attn: John B. Scheidler, Esq.  
Facsimile: (317) 838-6001  
Email: [john.scheidler@duke-energy.com](mailto:john.scheidler@duke-energy.com)

With a copy to:

Parker Poe Adams & Bernstein LLP  
Three Wells Fargo Center  
401 S. Tryon Street, Suite 3000  
Charlotte, NC 28202



Attn: A. Grant Whitney  
Facsimile: 704.334.4706  
Email: [grantwhitney@parkerpoe.com](mailto:grantwhitney@parkerpoe.com)

**NOTICE TO SELLER:**

Colerain Township, Hamilton County CIC, Inc.

\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

**NOTICE TO CLOSING AGENT:** Gerner & Kearns Co., L.P.A.  
7900 Tanners Gate Lane  
Florence, Kentucky 41042  
Attn: Jeffrey Arnzen  
Facsimile: 859.292.5427  
Email: [jarnzen@gernerlaw.com](mailto:jarnzen@gernerlaw.com)

**15. APPLICABLE LAW AND VENUE:** This Contract, the construction of this Contract, all rights and obligations between the parties to this Contract, and all claims arising out of or relating to the subject matter of this Contract (including all tort claims), shall be governed by and construed in accordance with the substantive laws of the state in which the Property is located without giving any effect to any conflict of law doctrine. The venue for all matters arising in relation to this Contract shall be the state and federal courts located in Hamilton County, Ohio. Both parties waive any defense of inconvenient forum to the maintenance of any action or proceeding so brought.

**16. RISK OF DAMAGE OR DESTRUCTION:** Until Closing, the risk of damage to or destruction of the Property shall be borne by Seller. In the event any portion of the Property is damaged or destroyed between the Effective Date and the Closing, Purchaser upon written notice to Seller shall have the right in the sole discretion of Purchaser, to terminate this Contract, whereupon the Duke Energy Purchase Price (as defined in the Demolition Agreement) shall be immediately refunded to Purchaser, and neither Purchaser nor Seller will have any further rights or obligations under this Contract. In the event Purchaser does not terminate this Contract and Seller does not repair or restore the damaged or destroyed portion of the Property by the Closing, Seller shall at the Closing (a) remit to Purchaser the amount of any insurance proceeds to which Seller may be entitled for such damage or destruction, and (b) assign any right to Purchaser to recover from any third party responsible for such damage or destruction.

**17. REAL ESTATE BROKER:** Seller and Purchaser represent and warrant to each other that except for the following person representing the following party, there is no broker, finder, or other person who is or will be entitled to a commission, fee, or other similar compensation relating

to this Contract, and agree to defend, indemnify, and hold harmless the other party in the event any claim for such a commission, fee or other similar compensation relating to this Contract, is made against the other party: **Jeffrey R. Bender of Cushman & Wakefield** (representing Purchaser).

**18. ENTIRE AGREEMENT:** This Contract contains the entire understanding and agreement of the parties with respect to the sale and purchase of the Property, and supersedes any prior understanding or agreement between the parties with respect to said sale and purchase. No modification, amendment, or supplement to this Contract shall be effective unless the same is in writing and signed by both parties.

**19. MISCELLANEOUS:**

- (a) The provisions of this Contract shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective heirs and permitted successors and assigns, as may be applicable.
- (b) TIME IS OF THE ESSENCE in this Contract. In addition, if the final day of any period of time set out in any provision of this Contract, falls on a Saturday, Sunday or holiday recognized by Bank of America, N.A., or any successor thereto ("**Bank of America**"), in Charlotte, North Carolina, then in such case, such period shall be deemed extended to the next day that is not a Saturday, Sunday, or holiday recognized by said bank.
- (c) No presumption shall be created in favor of or against either party with respect to the interpretation of any term or provision of this Contract due to the fact that this Contract was prepared by or on behalf of one of the parties.
- (d) The captions used in connection with the paragraphs of this Contract are for reference and convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Contract or be used in interpreting the terms and provisions of this Contract.
- (e) This Contract may be executed in two or more counterparts and shall be deemed to have become effective on the Effective Date when and only when one or more of such counterparts shall have been signed by or on behalf of each party hereto (although it shall not be necessary that any single counterpart be signed by or on behalf of each party hereto, and all such counterparts shall be deemed to constitute but one and the same instrument), and shall have been delivered by each party to the other party.
- (f) If any provision of this Contract is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Contract; and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Contract. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall



be added automatically as a part of this Contract a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible to make such provision legal, valid, and enforceable.

- (g) Each party hereto represents and warrants to the other party that the execution of this Contract and any other documents required or necessary to be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with their terms.
- (h) A failure or delay of either party to exercise any right or remedy under this Contract shall not operate to impair, limit, preclude, cancel, waive, or otherwise affect such right or remedy.

**20. REPRESENTATIONS AND WARRANTIES OF SELLER:** Seller hereby makes the following representations and warranties to Purchaser, each of which shall be deemed material and which shall be true and correct as of the Effective Date and as of the Closing, provided that with respect to representations and warranties that relate to title to, or ownership of, the Fireside Property or the Police Station Property, such representations and warranties shall be true and correct as of the date Seller acquires title to such property and as of the Closing (as defined in **Section 10** of this Contract):

- (a) Seller has good and marketable fee simple title to the Property, and there are no mechanics' liens, contractors' claims, unpaid bills for material or labor pertaining to the Property, nor any other similar liens that might adversely affect Seller's title to the Property.
- (b) Seller is a duly created and validly existing entity pursuant to the laws of the jurisdiction of its organization and is duly qualified to do business in the jurisdiction in which the Property is situated.
- (c) Public utilities, including electricity, telephone, sewer and water are available on or at the boundaries of the Property in sufficient quantities and pressures and at reasonably accessible locations to serve the Property.
- (d) There are no tenants, lessees, licensees, or other persons or entities on the Property that will have a right of possession to the Property beyond the date of Closing.
- (e) Seller has no knowledge of any pending or contemplated public improvements in or about the Property that may in any manner increase the taxes assessed against the Property.
- (f) All labor and services performed and materials furnished to the Property have been paid for in full, including any work performed or materials provided related to the Property within the past 120 days, and to the best of Seller's knowledge there exists no basis for which a mechanic's, materialmen's or similar lien can properly be claimed against the Property or any part thereof. Further, no work, labor, services have been performed on the Property nor materials or supplies provided for the property within 120 days of the Effective Date that would give rise to a mechanic's lien.

- (g) The Property and Seller's operations at the Property have been in the past and will be until the Closing in compliance with all federal, state or local laws, statutes, regulations, rules, ordinances, orders or injunctions, including those related to zoning, subdivision and construction (satisfactory evidence of which shall have been provided to Purchaser).
- (h) Seller is the owner of the Property and is authorized to convey the Property, bind Seller to this Contract, and to commit to the terms and conditions set forth in this Contract.
- (i) There are no pending, threatened, or contemplated condemnation, eminent domain, litigation or similar proceedings involving all or any portion of the Property, and Seller has received no notice of any such action.
- (j) No notice has been served on or delivered to Seller from any entity, governmental body or individual claiming any violation of any Environmental Statutes and Laws (as defined below) or demanding payment or contribution for environmental cleanup costs, environmental damage, or injury to natural resources, or asserting liability with respect to same.
- (k) To Seller's knowledge, no toxic or hazardous material or waste limited or regulated by any federal, state, or local governmental or quasigovernmental authority, or that, even if not so limited or regulated, could or does pose a hazard to the health or safety of the occupants of the Property or adjacent properties (collectively, "**Substances**"), including, but not limited to, petroleum products and substances regulated under any federal, state or local environmental statute, law, order, ordinance, regulation, rule, requirement or right or remedy existing under common law or in equity (collectively, the "**Environmental Statutes and Laws**") has been or, prior to the Closing, shall be, located, released (within the meaning of 42 U.S.C. § 9601(22)), stored, treated, generated, transported to or from, disposed of (with the meaning of 42 U.S.C. § 6903(3)) or allowed to escape on the Property, including, without limitation, the surface and subsurface waters of the Property. No above ground storage tanks ("**ASTs**") or underground storage tanks ("**USTs**") have been or are located on the Property or, if located on the Property, have been removed and disposed of in full compliance with all applicable Environmental Statutes and Laws (satisfactory evidence of which shall have been provided to Purchaser). No portion of the Property has been used for waste treatment, storage or disposal, and no wetlands are located within the boundaries of the Property. No investigation, administrative or judicial order, governmental notice of noncompliance or violation, remediation action plan, consent order and/or agreement, administrative proceeding, civil or criminal litigation or settlement under Environmental Statutes and Laws or with respect to Substances, ASTs or USTs have been or are proposed, threatened, anticipated or in existence with respect to the Property.

21. **SURVIVAL OF WARRANTIES AND CONDITIONS:** Except as otherwise expressly provided herein, all conditions, warranties, representations, and agreements made herein shall survive Closing and delivery of the Deed indefinitely.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and Purchaser have caused this Contract to be executed as of the Effective Date.

**SELLER:**

**COLERAIN TOWNSHIP, HAMILTON  
COUNTY CIC, INC.,**  
an Ohio not-for-profit corporation

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

Name: \_\_\_\_\_

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

**PURCHASER:**

**DUKE ENERGY OHIO, INC.,**  
an Ohio corporation

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

Name: Martha S. Purser

Title: Director Real Estate Strategy &  
Transactions

Town has executed this Contract below as of the Effective Date for the sole purpose of agreeing (i) to convey the Police Station Property to Seller on or before ten (10) days after the Effective Date pursuant to this Contract, and (ii) to execute and deliver any document as may be reasonably required to effectuate the terms and transactions contemplated by this Contract.

**TOWN:**

**COLERAIN TOWNSHIP,**  
a political subdivision of the State of Ohio

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

Name: \_\_\_\_\_

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



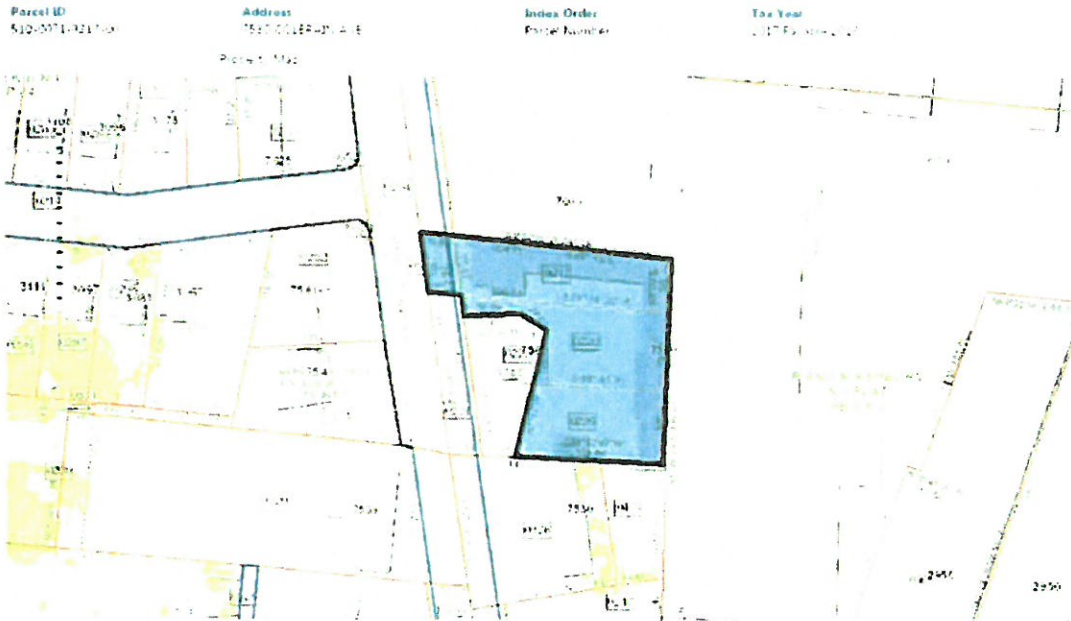
## Exhibit "A"

### Fireside Property

Approximately 0.828 acres of real property located in Hamilton County, Ohio, and Hamilton County Auditor Tax Parcel Nos. 510-0071-0217-00 and 510-0071-0473-00. The Fireside Property is depicted below.

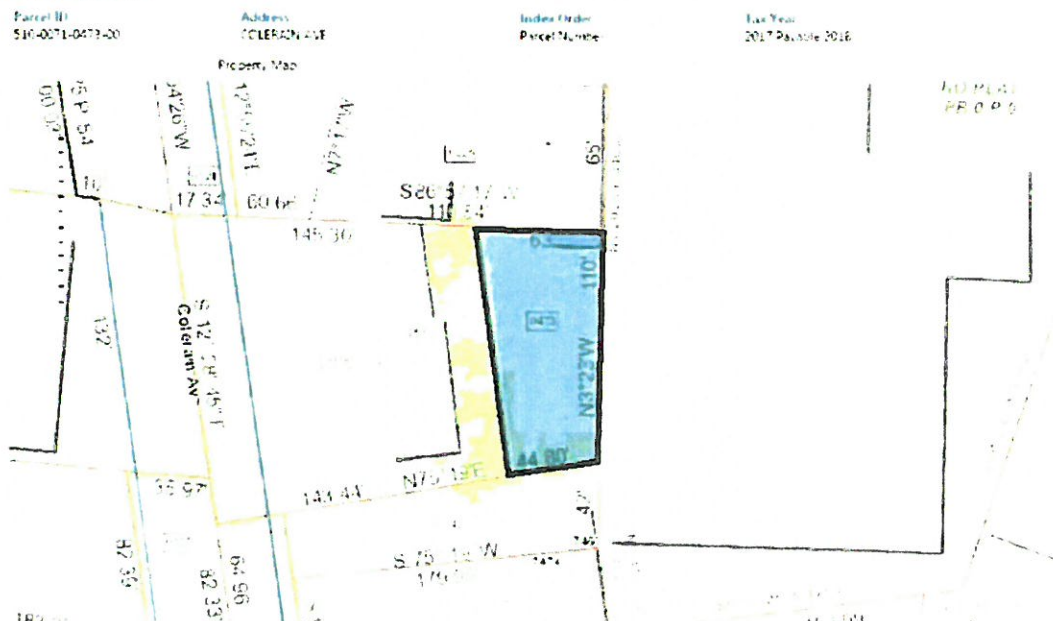
#### Dusty Rhodes, Hamilton County Auditor Property Report

generated on: 2-20-2018 4:04 PM PST



#### Dusty Rhodes, Hamilton County Auditor Property Report

generated on: 2-20-2018 4:04 PM PST



**Police Station Property**

generated on 2/23/2018 9:37:28 AM EST

Tax Year  
2017 to 2018

