

RESOLUTION NO. 5, 2025

A RESOLUTION OF THE VILLAGE OF ST. BERNARD, OF OHIO, AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE AN AGREEMENT WITH ENERGY ALLIANCES, INC., AND DECLARING AN EMERGENCY

WHEREAS, in March 2025, the Council of the Village of St. Bernard, Hamilton County, Ohio ("Village"), enacted legislation, Ordinance No. 6, 2025 & Ordinance No. 7, 2025, to place on the ballot for consideration by the residents of St. Bernard, the issues of the Village becoming a Government Aggregator, for the aggregation of natural gas and electric services, and to facilitate the sale and purchases of those energy sources; and

WHEREAS, the Village wishes to retain the services of a consultant, Energy Alliances, Inc., to assist the Village in taking the steps associated with this process, including, but not limited to, becoming PUCO certified following voter approval of one or both of the aggregation ballot issues, administering the supplier selection process, providing energy buying consultation and recommendations, and administering the day-to-day operations of such a program. Now therefore,

BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO

Section 1. The Village hereby authorizes the Mayor or his designee to enter into an Independent Agent Agreement for Natural Gas and Electric Services with Energy Alliances, Inc., (Exhibit A), to engage Energy Alliances, Inc. services as an Consultant and Independent Agent; and

Section 2. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is to ensure timely retention of the services of Energy Alliance Inc., and assist the Village in the process of becoming a Governmental Aggregator with the purpose of reducing the overall energy costs of the Village of its residents. Therefore, this resolution shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this resolution shall take effect on the earliest date provided by law if approved by no more than the majority of the members of Council and in that event the emergency provisions herein are set at naught.

Passed this 22nd day of May, 2025.



President of Council

ATTEST:



Clerk of Council

ORIGINAL

Approved this 22nd day of May, 2025.



Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Resolution No. 5, 2025, was made by posting true copies of the same in the most public places designated by Council: the Village website and the Village social media account for a period of fifteen (15) days or more commencing May 22nd, 2025.

ATTEST: Carol Steyer DATE May 22nd 2025
Clerk of Council
Approved as to form Sam Dan Sacks by Wall Date 22 May 2025
Director of Law

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**INDEPENDENT AGENT AGREEMENT
FOR NATURAL GAS AND ELECTRIC AGGREGATION SERVICES**

This Agreement, made and entered into this _____ day of _____, 2025, by and between the **VILLAGE OF ST. BERNARD OHIO** (“Client”) whose address is 110 Washington Ave, St Bernard, OH 45217, and **ENERGY ALLIANCES, INC.** (“Consultant”) whose address is 8469 Blue Ash Road, Suite 101, Cincinnati Ohio 45236.

WITNESSETH:

WHEREAS, Client is the governing body of a village in the State of Ohio; and

WHEREAS, Ohio Revised Code Section 4928.20 authorizes Client to adopt a resolution to aggregate electric services within the village and, for that purpose, to enter into service agreements to facilitate the sale and purchase of electricity.

WHEREAS, Ohio Revised Code Section 4929.26 authorizes Client to adopt a resolution to aggregate natural gas services within the village and, for that purpose, to enter into service agreements to facilitate the sale and purchase of natural gas.

WHEREAS, Client is interested in reducing its overall energy costs and the energy costs of its residents; and

WHEREAS, Consultant offers energy consulting and natural gas and/or electric aggregation services that may reduce the cost per energy unit consumed; and

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

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements herein contained, the parties hereto mutually agree as follows:

1. SCOPE OF SERVICES

A. Consultant shall provide energy consulting and natural gas and/or electric aggregation services (“Services”) including but not limited to the following:

- 1) Assist Client in becoming certified by the PUCO as a Governmental Aggregator following voter approval of the aggregation ballot issue(s). Such assistance may include but is not limited to drafting (or working with chosen supplier to draft) the

Plan of Operation and Governance ("Plan"), lead all required Public Hearings discussing said Plan, filing (or working with chosen supplier to file) the Plan for certification by the PUCO, responding to all PUCO requests for additional information until certification as a Governmental Aggregator is granted by the PUCO.

- 2) Administer the supplier selection process; analyze supplier qualifications/proposed program options; provide supplier recommendations; and assist in the supplier contractual process and supplier performance evaluation.
 - 3) Provide energy buying consultation and recommendations.
 - 4) Assist in the design of Opt-Out Notification Form and other program notifications.
 - 5) Assist in the volume data collection process and verification;
 - 6) Assist with the day-to-day administration of the Program ((including but not limited to: problem resolution, press releases, maintaining PUCO compliance (including annual reporting requirements and certification renewal), and supplier liaison)).
 - 7) Report on Program participation and provide energy program performance reports.
- B. Consultant agrees to furnish the services of its organization, to exert its best efforts, and to exercise the highest degree of professional skill and competence in performing all services specified above, or otherwise listed in, this Agreement and as to any additional work required by Client and accepted by the Consultant. Receipt by the Consultant of any approval by the Client shall not release or diminish the obligation of the Consultant to perform all Services in accordance with this standard of care.
- C. Consultant shall update Client on its progress at regular intervals.

2. RELATIONSHIP BETWEEN THE PARTIES

- A. The relationship created herein between Consultant and Client is that of an independent agent. Nothing herein contained shall be construed to create any other relationship or to create a joint venture, partnership, or employee-employer relationship between the parties.
- B. Nothing in this Agreement shall be construed to give Consultant any interest in the tangible or intangible assets of Client or to give either party the authority to bind, represent, or commit the other.
- C. Consultant specifically recognizes and understands that as an independent agent it will be solely responsible for the payment of all appropriate federal, state, and local taxes relative to any compensation from the selected supplier that it receives. Consultant further agrees to indemnify and hold Client harmless from any liability or claims incurred by Client as a result of Consultant's failure to pay such appropriate taxes, failure to pay benefits, workers' compensation, occupational illness or other claims.

3. COMPETITION

Consultant may represent, perform services for, and be employed by any additional clients, political subdivisions, municipalities, persons, or companies as Consultant, in Consultant's

sole discretion, sees fit, including others in the same business or in competition with Client. In addition, nothing in this Agreement shall prevent Consultant from competing with the business of Client.

4. ACCEPTANCE/REJECTION OF OFFER

Client retains sole discretion to accept or reject any offer brokered by Consultant for natural gas and electric supply service to Client, regardless of the amount of savings which may be realized by that offer.

5. FACILITIES AND EQUIPMENT

Consultant is solely responsible for the provision of facilities and equipment necessary to fulfill its responsibilities under this Agreement.

6. COMPENSATION

There shall be no cost to Client for Consultant's services outlined in this Agreement.

7. TERM OF AGREEMENT

If this Agreement is not terminated pursuant to Paragraphs 9, 10, or 11 of this Agreement, this Agreement shall be in effect until the conclusion of any contract brokered by Consultant with a selected electric and/or natural gas supplier to provide energy supply to Client's residents. Unless either party notifies the other party of its intention to terminate this Agreement at least one hundred twenty (120) days prior to its expiration, the Agreement shall renew itself automatically for subsequent one-year terms. However, nothing in this Agreement, including its Term, shall preclude or prohibit Client from requesting proposals from, bidding for, negotiating or contracting with other consultants during the Term of this Agreement to perform the Services currently performed by Consultant after the expiration of the Term of this Agreement. Moreover, in order to ensure a seamless transition and continuation of the program at the expiration of the Term of this Agreement, any consultant chosen by the Client may, during the Term of this Agreement, perform the Services currently performed by Consultant in order to obtain, contract with, and retain suppliers for Client after the expiration of the Term of this Agreement.

8. PRIMARY CONSULTANT AND SUBCONTRACTING

- A. The Consultant agrees that all of its employees, subcontractors, and agents assigned to perform Services under this Agreement shall be competent and have sufficient prior experience to carry out the responsibilities assigned to them effectively and efficiently.
- B. None of the Services covered by this Agreement shall be subcontracted without the prior written consent of Client which consent shall not be unreasonably withheld. Any Services subcontracted hereunder shall explicitly state that it is subject to each provision of this Agreement.

9. TERMINATION

Notwithstanding any other provision of this Agreement it is mutually understood and agreed that this Agreement may be terminated upon mutual consent. In the event Client terminates

this Agreement pursuant to this provision, Client assumes all obligations to arrange for its natural gas and/or electric service.

10. CLIENT'S TERMINATION FOR CAUSE

A. In addition to termination as provided by Paragraph 9 hereof, this Agreement may be terminated by Client at any time without notice upon the occurrence of one or more of the following events:

- 1) In the event Consultant shall be guilty of fraud, dishonesty, or other acts of misconduct in the rendering of professional services; or
- 2) In the event Consultant shall fail or refuse to faithfully or diligently perform the provisions of this Agreement or the usual or customary duties of its profession; or
- 3) Bankruptcy or insolvency of Consultant; or
- 4) Assignment of this Agreement by Consultant without the prior written consent of the Client.

B. In the event Client terminates this Agreement pursuant to this provision, Client assumes all obligations to arrange for its natural gas and/or electric service.

11. CONSULTANT'S TERMINATION FOR CAUSE

A. In addition to termination as provided by Paragraph 9 hereof, this Agreement may be terminated by Consultant upon the occurrence of one or more of the following events:

- 1) In the event Client fails to comply with statutory deadlines required for natural gas and electric aggregation, after being notified of such deadlines by Consultant in writing; or
- 2) In the event Client fails to respond in a timely manner to Consultant's written requests for action and/or approval. Both parties acknowledge that Client is the governing body of a political subdivision of the state of Ohio and must therefore act in accordance with the meeting and publication statutes governing such bodies. Accordingly, both parties agree that the determination of timely action by Client shall be made in consideration of those requirements; or

B. In the event Consultant terminates this Agreement pursuant to this provision, Client assumes all obligations to arrange for its natural gas and/or electric service.

12. RIGHT TO AUDIT

Client shall have the right to audit the performance of Consultant under this Agreement.

13. COMPLIANCE WITH LAWS

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

14. CONFIDENTIALITY

Except for matters of public record, information already within the other party's possession prior to entering into this Agreement, and except to the extent required (through deposition, interrogatory, request for production, subpoena, civil investigative demand or similar process) by a court order, Client agrees to keep confidential all information, including pricing and any data collected hereunder, unless expressly agreed to in writing by Client and Consultant. In the event that Client becomes required, in the manner specified above, to disclose any confidential information, Client shall provide prompt written notice to Consultant so that Consultant may timely seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, Client agrees to furnish only that portion of the confidential information that is required to be furnished.

15. ASSIGNABILITY

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

16. MERGER OF AGREEMENT

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

17. NOTICES

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

As to Consultant:

Energy Alliances, Inc.
8469 Blue Ash Road, Suite 1
Cincinnati OH 45236

As to Client:

Village of St. Bernard
110 Washington Ave
St Bernard, OH 45217

18. GOVERNING LAW

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

19. MISCELLANEOUS

- A. A waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.
- B. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

20. AUTHORITY TO SIGN

The representative of the Consultant whose signature is affixed to this Agreement affirms that he has been duly authorized to bind the Consultant to the terms of this Agreement by his signature. The representative of Client whose signature is affixed to this Agreement affirms that he has been duly authorized to bind Client to the terms of this Agreement by his signature.

IN WITNESS WHEREOF, Client and Consultant have executed this Agreement as of the date first written above.

VILLAGE OF ST. BERNARD

ENERGY ALLIANCES, INC.

APPROVED AS TO FORM:
