

OPTION AGREEMENT TO PURCHASE REAL ESTATE

GREENWOOD SOUTH SUBSTATION

(R 2/20/13)

1. Effective Date: [REDACTED] (the "Effective Date").
2. Grant of Option. In consideration of the payment of One Thousand Dollars (\$1,000.00), the receipt and sufficiency of which is hereby acknowledged ("Initial Option Money"), and subject to the terms and conditions in this Agreement, **Central Nine Career Center**, a(n) [REDACTED] with an address of 9 East Court Street, Franklin, IN 46131 (hereinafter referred to as "Seller"), grants and conveys to **Duke Energy Indiana, Inc.**, an Indiana corporation, with an address of 1000 East Main Street, Plainfield, Indiana 46168; (Attn: Right of Way Department) and its successors and assigns (hereinafter referred to as "Purchaser"), an exclusive and irrevocable option ("Option") to purchase a certain parcel of real estate, together with all improvements and fixtures situated thereon and all appurtenant rights, privileges and easements, which parcel is located in Pleasant Township, Johnson County, Indiana, and is described and/or depicted on the attached **Exhibit "A"** and incorporated herein (hereinafter referred to as the "Real Estate"), for the "Purchase Price" stated in Paragraph 6.
3. Exercise and Option. Purchaser may exercise the Option at any time between the Effective Date and [REDACTED] ("Initial Option Period"). At the expiration of the Initial Option Period, Purchaser shall have the right to automatically extend the Option for up to and including one (1) additional period of six (6) months; provided, that prior to the expiration of the Initial Option Period, Purchaser tenders written notice of such election and an additional sum of One Thousand Dollars (\$1,000.00) to Seller (the Initial Option Period and said additional extension period, as the case may be, both hereinafter referred to as the "Option Period") (the Initial Option Money and said additional sum of money, as the case may be, both hereinafter referred to as the "Option Money"). The Option Money shall be applied to the Purchase Price as set forth in Paragraph 9.
4. Inspections. During the Option Period, Purchaser and its agents, employees, and contractors, at the expense of Purchaser, shall have the right to enter upon the Real Estate and adjoining land of Seller to conduct various inspections, tests, audits and investigations of the Real Estate, including but not limited to, an ALTA/ACSM Land Title survey prepared by an Indiana registered land surveyor (the "Survey"), soil test borings, compaction tests, archeological reviews (including digs), and environmental audits; provided, however, Purchaser shall have the right to cut down or trim trees, crops, or vegetation as may be determined by Purchaser to be necessary or convenient for any such inspection, test, audit or investigation. If Purchaser determines in the course of any such inspection, test, audit, or investigation that the Real Estate is not suitable for Purchaser's utility use, Purchaser shall have the right to terminate this Agreement by giving written notice to Seller on or before the end of the Option Period.

For Grantee's Internal Use:

Site Name/No: _____

Tract No: _____

Job Control # _____

LU# _____

Prep/Chk: _____ *Exec/Rec:* _____

Dwg/Fac Ref.: _____

Prepared Date: _____

5. No New Agreements. During the Option Period, Seller shall not, without the prior written consent of Purchaser, enter into any agreement concerning the Real Estate, including but not limited to, the construction of improvements, the granting of easements, or any action that would affect the use or development of the Real Estate.
6. Purchase Price. Purchaser shall exercise the Option by giving written notice to Seller on or before the expiration of the Option Period. If Purchaser exercises the Option, the **"Purchase Price"** of the Real Estate shall be determined by a market value appraisal to be performed by an Indiana licensed appraiser. Said appraisal to be obtained by Purchaser at the expense of Purchaser. The exact acreage to be purchased will be surveyed and determined by an ALTA/ACSM Land Title survey prepared by an Indiana registered land surveyor and obtained by Purchaser at the expense of Purchaser.
7. Title. If Purchaser exercises the Option, Purchaser shall have the right, at its expense, to order a commitment for an owner's policy of title insurance regarding the Real Estate (**"Title Commitment"**). Purchaser shall give written notice to Seller of any defects or objections to the title disclosed by the Title Commitment or the Survey referenced in Paragraph 4. Seller shall make a reasonable effort to cure any such defects or objections within thirty (30) days from the date Purchaser gives written notice of such defects or objections. If all of such defects or objections have not been cured by Seller within the thirty (30)-day period, the Option Period shall be automatically extended for an additional thirty (30)-day period and Purchaser shall have the right to either (a) cure by the payment of money, those defects or objections that are in the nature of monetary liens on the Real Estate (e.g., due and payable real estate taxes and assessments, mechanics liens, judgment liens, and mortgages) and deduct the amount of the payment from the Purchase Price, and/or to waive any such defect or objection; or (b) terminate this Agreement by giving written notice to Seller on or before the expiration of the Option Period.
8. Permits. Purchaser, at its expense, shall have the right to initiate any action to obtain any governmental permits, consents, approvals, or other entitlements (**"Permits"**) that Purchaser, in its sole discretion, deems necessary for Purchaser to use the Real Estate for Purchaser's utility use. Seller shall provide reasonable cooperation to Purchaser, at the expense of Purchaser, in obtaining such Permits. If Purchaser is not able to obtain Permits within the Option Period, Purchaser shall have the right to terminate this Agreement by giving written notice to Seller on or before the expiration of the Option Period.
9. Closing. If Purchaser exercises the Option by providing written notice to Seller as set forth in Paragraph 6 above, and does not terminate this Agreement pursuant to Paragraphs 4, 7, 8, 10 or 11, a closing (**"Closing"**) shall occur within thirty (30) days after either (a) the defects or objections to the title have been waived by Purchaser or cured by Seller or Purchaser pursuant to Paragraph 7, and all necessary Permits have been obtained pursuant to Paragraph 8, or (b) the Option Period expires, whichever occurs first. The Closing shall be located at the local office of the title insurance company that prepared the Title Commitment pursuant to Paragraph 7 (**"Title Company"**). Purchaser shall have the right to have an "insured closing" at the Title Company, which shall be at Purchaser's sole election, and if Purchaser exercises said right, the costs thereof shall be paid by Purchaser. At

Closing, Seller shall convey the Real Estate (including all fixtures and improvements situated thereon) to Purchaser in the same condition they were in at the Effective Date, reasonable wear and tear excepted, by a warranty deed ("Warranty Deed"), free and clear of all liens and encumbrances except those waived by Purchaser pursuant to Paragraph 7, and real estate taxes and assessments that are due but not payable until the year after the Closing. The Warranty Deed shall be prepared by counsel for Purchaser (or the Title Company at the request of Purchaser) that is acceptable to the Title Company and use the legal description of the Real Estate prepared with the Survey pursuant to Paragraph 4. All assessments and real estate taxes that are due but not yet payable in the year of Closing shall be prorated as of the date of Closing between Seller and Purchaser. That portion of the assessments and real estate taxes that are allocable to Seller shall be allowed to Purchaser as a credit on the Purchase Price, and Seller shall not be further liable for such assessments and real estate taxes; provided, however, any installment for the parcel in which the Real Estate is located and that is due and payable in the year of the Closing, shall be paid by the Title Company and deducted from the Purchase Price. Seller shall also provide Purchaser at Closing with (a) an executed vendor's affidavit in a form prepared by counsel for Purchaser (or the Title Company at the request of Purchaser) that is acceptable to the Title Company, (b) any other document that the Title Company may reasonably request to insure the title to the Real Estate and (c) any document required by Purchaser as a condition to Closing as set forth in Paragraph 11 below. At Closing, Purchaser via the Title Company shall pay Seller by a single check made payable to the Seller (in the absence of a written agreement to the contrary between Seller and the Title Company prior to Closing) the Purchase Price, less the Option Money and less any credits pursuant to this Paragraph 9, and Paragraph 7 and 11. If through no fault of Purchaser, the Real Estate should become not suitable for Purchaser's utility use between the time of the Option Period and Closing, Purchaser shall have the right to terminate this Agreement by giving written notice to Seller at or before the Closing. Seller shall provide Purchaser with exclusive possession of the Real Estate at Closing. In the event Seller is unable to convey good insurable and merchantable title to the Real Estate at Closing that is satisfactory to Purchaser in its sole discretion, Purchaser shall have the right to either: (a) accept such title as Seller is able to convey and proceed with the Closing, or (b) reject title and terminate this Agreement by giving written notice to Seller at or before the Closing.

10. Termination. If Purchaser terminates this Agreement pursuant to Paragraph 4, 7, 8, 9 or 11, Seller shall return the Option Money to Purchaser within ten (10) days after receipt of a written notice of termination from Purchaser. If Seller defaults in the performance of any of its obligations hereunder, and Seller does not correct such default within fifteen (15) days after receipt of written notice from Purchaser specifying the default ("Notice of Default"), Seller shall return the Option Money to Purchaser within thirty (30) days after receipt of the Notice of Default and such return shall not limit Purchaser's rights at law, in equity or by contract to pursue remedies for such default, including but not limited to, initiating an action in court against Seller for specific performance of this Agreement. Seller shall also reimburse Purchaser for any costs or expenses including attorneys' fees that are incurred by Purchaser in initiating a legal or equitable action in court against Seller to pursue said remedies; provided, that Purchaser prevails in any such action. If Purchaser terminates this Agreement for convenience at any time during the Option Period or if the Option Period expires and Purchaser has neither exercised the Option nor terminated this Agreement pursuant

to this Paragraph 10, or Paragraphs 4, 7, 8, 9 or 11, Seller shall have the right to retain the Option Money, which shall be Seller's sole remedy and Purchaser's sole liability for any termination or failure to exercise the Option.

11. Other Terms and Conditions. Notwithstanding anything to the contrary in this Agreement, Seller and Purchaser agree to the following additional terms and conditions, which shall be further conditions to the Closing:

- If any crops are damaged pursuant to Paragraph 4, Purchaser and Seller agree that Seller's compensation shall be \$400.00 for each acre of crops that are damaged.

12. Authority. Seller represents and warrants that Seller has fee simple title to the Real Estate and has all the right, power and authority to enter into this Agreement and to consummate the transaction contemplated hereby and to grant the Option with respect to the Real Estate pursuant to this Agreement.

13. Notice. Any written notification required to be given by this Agreement shall be accomplished on the date the notice is personally delivered to the other party or on such date it is mailed to the other party at the address set forth below by certified mail-return receipt requested or by national overnight courier:

IF TO PURCHASER: **Duke Energy Indiana, Inc.**
 Attn: Real Estate Dept.
 1000 East Main Street
 Plainfield, IN 46168

IF TO SELLER: Central Nine Career Center
 Attn: John Showalter
 1999 U.S. 31 South
 Greenwood, Indiana 46143

14. Miscellaneous. Seller or Purchaser shall have the right to assign their respective rights and delegate their respective duties herein; provided, however, that Seller or Purchaser shall remain secondarily responsible for the faithful performance of its respective duties. This Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of Seller and Purchaser. Purchaser shall have the right to prepare, execute, and record a memorandum of this Agreement in the Office of the Recorder of Johnson County, Indiana. Seller and Purchaser each represent to the other that there is no broker or other person entitled to a commission or similar fee in connection with this transaction, which would be the responsibility in whole or in part of the other party. This Agreement contains the entire understanding of Seller and Purchaser regarding the Option and rights set forth in this Agreement, and supersedes all prior negotiations, representations, or agreements, either written or oral, regarding the Option and the rights set forth herein. The paragraph headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any paragraph. This Agreement shall be governed by and construed in accordance with the law of the State of Indiana. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving

the existence and terms of this Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

IN WITNESS WHEREOF, this Agreement is executed, and effective, as of the Effective Date.

SELLER:

Central Nine Career Center

By: _____

Printed Name: _____

Printed Title: _____

PURCHASER:

Duke Energy Indiana, Inc.

By: _____

Printed Name: _____

Printed Title: _____

ACKNOWLEDGEMENTS

STATE OF _____)
)
COUNTY OF _____) SS:

Before me, a Notary Public in and for said County and State, personally appeared _____, _____, the authorized representative of Seller herein, who acknowledged the execution of the foregoing Option Agreement To Purchase Real Estate for and on behalf of the Seller herein as the [her/his/their] voluntary act and deed of Seller, and having been duly sworn/affirmed, state(s) that any representations contained therein are true to the best of her/his/their personal knowledge.

Witness my hand and Notarial Seal this _____ day of _____, 201_.

My Commission Expires:

My County of Residence:

Notary Public

Print/Type Name: _____

STATE OF _____)
)
COUNTY OF _____) SS:

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of Duke Energy Indiana, Inc., as the Purchaser herein who acknowledged the execution of the foregoing Option Agreement To Purchase Real Estate for and on behalf of the Purchaser herein as the voluntary act and deed of Purchaser, and having been duly sworn/affirmed, states that any representations contained therein are true to the best of her/his personal knowledge.

Witness my hand and Notarial Seal this _____ day of _____, 201_.

My Commission Expires:

My County of Residence:

Notary Public

Print/Type Name: _____

This Instrument Prepared by:

John B. Scheidler
Attorney-at-Law
1000 E. Main St.
Plainfield, IN 46168

Exhibit "A"

To

Option Agreement to Purchase Real Estate

See, attached depiction of Real Estate

A Five (5) acre parcel (+/-), exact acreage subject to an ALTA/ACSM Land Title Survey, being a part of a 60.79 acre tract of land described in Deed Book 190, page 531, which is recorded in the office of the Recorder of Johnson County, Indiana and being a part of the Northwest Quarter of Section 9, Township 13 North, Range 4 East of the Second Principal Meridian in Pleasant Township, Johnson County, Indiana, depicted as shown below:



