

This Memorandum of Understanding is entered into by and between:

Sustainable Westchester, Inc, a New York not-for-profit corporation, and The Village of Croton-on-Hudson (The Municipality), a local government member of Sustainable Westchester, Inc.

1. Background:

- a. In February 2015, the New York Public Service Commission issued an Order for Case 14-M-0564 as follows: “The Petition of Sustainable Westchester is granted to the extent that its municipal members are authorized to undertake a Community Choice Aggregation demonstration project consistent with the discussion in the body of this Order...”
- b. The PSC subsequently issued an Order for Case 14-M-0224 which authorized Community Choice Aggregation (“CCA”) throughout New York State (the “PSC CCA Order”).
- c. Sustainable Westchester’s Pilot CCA Program (“Sustainable Westchester Pilot CCA Program”) enrolled customers from an initial group of 20 participating municipalities in April 2016. Since then, Sustainable Westchester has enrolled one additional and three other municipalities have obtained permission from the PSC to participate.
- d. For municipalities in the Con Edison utility territory, the Sustainable Westchester Pilot CCA Program will conclude on December 31, 2018.
- e. In compliance with the PSC CCA Order, **The Municipality** has adopted local legislation to enable Community Choice Aggregation.
- f. As a member of Sustainable Westchester in good standing, **The Municipality** wishes to engage the services of Sustainable Westchester as the Program Manager for Community Choice Aggregation for the Operation and Maintenance of the Program.

2. Definitions:

- a. **Bundled Customers** – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.
- b. **Community Choice Aggregation Program or CCA Program or Program** – A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the Participating Municipality, as defined in the PSC CCA Order.
- c. **Competitive Supplier:** An entity duly authorized to conduct business in the State of New York as an energy service company (ESCO) that procures electric power for Bundled Customers in connection with this CCA Program.
- d. **Compliant Bid:** Electric power supply bid from a Competitive Supplier that meets the requirements specified in this MOU and the ESA. Compliant Bid price must be inclusive of fees owed to Program Manager and be less than:
 - i. Residential accounts: 8.26 cents/kwh
 - ii. Small commercial accounts: 9.06 cents/kwh
- e. **Electric Service Agreement (ESA):** an agreement which implements a CCA Program and contains all the terms and conditions of the program.
- f. **2016 ESA:** The ESA which implemented the Sustainable Westchester Pilot CCA Program during the period from April 2016 to December 31, 2018.

- g. **2019 ESA:** The ESA which will implement Sustainable Westchester CCA Program commencing January 1, 2019 for the Con Ed service territory (attached as Exhibit 1).
 - h. **Credit Review:** An assessment of the creditworthiness of the Competitive Supplier or adequate documentation of alternative credit arrangement that is at least as secure as a credit-worthy Competitive Supplier
 - i. **Distribution Utility:** Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.
 - j. **Participating Municipality:** A dues-paying municipal member of Sustainable Westchester Inc, which has adopted the applicable local legislation for the Community Choice Aggregation Program.
 - k. **Program Manager:** Sustainable Westchester, Inc, a non-profit corporation of which the Participating Municipality is a member, authorized by the Public Service Commission per Order for Case 14-M-0564 “to undertake a Community Choice Aggregation demonstration project.”
 - l. **Public Service Commission:** The New York State Public Service Commission or the New York State Department of Public Service acting as staff on behalf of the Public Service Commission (PSC).
3. **Purpose:** The purpose of the Memorandum of Understanding is as follows:
- a. To establish participation by **The Municipality (hereafter, the “Participating Municipality”)** in a Community Choice (Energy) Aggregation Program (hereafter, the “Program”) to be managed on its behalf by **Sustainable Westchester, Inc (hereafter, the “Program Manager”)**, under 2019 ESA which shall have substantially the same terms as those outlined in the attached 2019 ESA Template (Exhibit 1). The 2019 ESA Template tracks as closely as possible to the 2016 ESA in its content, with only minor changes to enable administrative streamlining and additional renewable energy options.
 - b. To affirm that the Participating Municipality and Program Manager agree to execute the 2019 ESA, subject to the conditions of review and approval outlined below.
 - c. To affirm that the Participating Municipality and Program Manager agree to adhere to the terms and conditions of the 2019 ESA in the event they execute it.
4. **Roles and responsibilities of the Program Manager:** As Program Manager, Sustainable Westchester Inc agrees to perform all duties required in the 2019 ESA and, prior to execution of that agreement, Program Manager agrees to:
- a. Provide the involved agencies and parties to the PSC CCA Order, such as but not limited to the Public Service Commission or Distribution Utility, requested information about and documentation of the actions undertaken by the Participating Municipality in furtherance of enabling participation in the Program;
 - b. Manage the energy procurement bidding process including:
 - i. the identification and notification of potential firms seeking to be the Competitive Supplier,
 - ii. the Request for Proposals process from preparation of the content to the publication of the Request and management of firms responding to the Request,
 - iii. the preparation of the Electric Service Agreement that will be included in the Request,

- iv. the acceptance and secure opening of the responses to the Request, and
 - v. the organizing of Credit Review and bid evaluation,
- all in a manner that is transparent to the Participating Municipality and firms seeking to be the Competitive Supplier;
- c. Sign the 2019 ESA in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed creditworthy for the duration of the Electric Service Agreement by the Credit Review, or
 - ii. the Competitive Supplier arranges alternative credit terms that are, at a minimum, as secure as those achieved with a creditworthy Supplier as deemed by the Credit Review, and, in either case
 - iii. the Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed a Compliant Bid as defined in Section 2, above, through the bid evaluation stipulated in 4.b.v., above.; and
 - d. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager's inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities.
- 5. Roles and responsibilities of the Participating Municipality:** As a Participating Municipality, the **Municipality** agrees to:
- a. Sign the Electric Service Agreement in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed creditworthy for the duration of the Electric Service Agreement by the Credit Review, or
 - ii. the Competitive Supplier arranges alternative credit terms that are, at a minimum, as secure as those achieved with a creditworthy Competitive Supplier as deemed by the Credit Review, and, in either case
 - iii. such Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed a Compliant Bid as defined in Section 2, above, through the bid evaluation process stipulated in 4.b.v., above.
- 6. Term:** Memorandum of Understanding shall expire on the earlier of November 30, 2018 or the date on which the Electric Service Agreement is signed by all three counterparties to the Electric Service Agreement.

IN WITNESSETH WHEREOF, the parties hereto have signed this MEMORANDUM OF UNDERSTANDING on the day and year appearing below their respective signatures.

Village of Croton-on-Hudson

Authorized Official: Janine King, Village Manager

Signature Printed Name and Title: Janine King

Address: 1 Van Wyck Street, Croton-on-Hudson, New York 10520

Telephone(s): 914-271-4848

E-Mail Address: jking@crotononhudson-ny.gov

Address for Notices: 1 Van Wyck Street, Croton-on-Hudson, New York 10520

Sustainable Westchester Inc

Authorized Official: _____

Signature Printed Name and Title: _____

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices: _____

Attachments:

Exhibit 1, Electric Service Agreement