

MEMORANDUM OF UNDERSTANDING
For
Participation in the Westchester Power Contract
For Communities in the Con Edison Service Territory

This Memorandum of Understanding is entered into by and between:

Sustainable Westchester, Inc., a New York non-profit corporation (“Sustainable Westchester”), and the City / Town / Village of _____ (the “Municipality”), a local government member of Sustainable Westchester (each a “Party” and collectively, the “Parties”).

1. Background:

- a. The New York Public Service Commission, through the CCA Orders (as defined below), has approved the establishment of Community Choice Aggregation ("CCA") programs throughout New York State and authorized Sustainable Westchester to implement a CCA program pursuant to a Master Implementation Plan.
- b. Sustainable Westchester’s CCA Program enrolled Participating Customers from an initial group of 20 participating municipalities in April 2016. Since then, nine additional municipalities have joined and several other municipalities are actively working towards participation.
- c. For participating municipalities in the Con Edison utility territory, the current Electric Service Agreement for the Sustainable Westchester CCA Program will terminate on the first meter read date after October 31, 2024.
- d. In compliance with the CCA Orders, the Municipality has adopted local legislation to enable Community Choice Aggregation.
- e. As a member of Sustainable Westchester in good standing and a participant in the Sustainable Westchester CCA Program, the Municipality wishes to continue 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. **2022 ESA:** The ESA which implemented the Sustainable Westchester CCA Program during the period from November 1, 2022 to the first meter read date after October 31, 2024.
- b. **2024 ESA:** The ESA which will implement Sustainable Westchester CCA Program commencing on November 1, 2024 for the Con Edison service territory. The 2024 ESA shall have substantially the same terms outlined in the attached 2024 ESA Template (Attached as Exhibit 1). The 2024 ESA Template contains updates to applicable New York State tariffs and other clarifying changes to the 2022 ESA.
- c. **CCA Orders:** Collectively, the February 26, 2015 “Order Granting Petition in Part” issued by the PSC in Case 14-M-0564; the April 21, 2016 “Order Authorizing Framework for Community Choice Aggregation Opt-out Program” issued by the PSC in Case 14-M-0224 (the “CCA Framework Order”), which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan; and the January 19, 2023 “Order Modifying Community Choice Aggregation Programs and Establishing Further Process” issued by the PSC in Case 14-M-0224 (the “CCA Framework Modification Order”).

- d. **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 Eligible Consumers within the Participating Municipality, as defined in the CCA Orders.
- e. **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 Eligible Consumers in connection with this CCA Program.
- f. **Compliant Offer:** Electric power supply offer from a Competitive Supplier that meets the requirements specified in this MOU and the 2024 ESA and that is submitted by the lowest responsible bidder, subject to the terms and conditions set forth in the 2024 RFP.
- g. **Default Product:** The product selected by the Municipality for supply to its Participating Customers, unless they take action to select a different product or opt out. The Default Product for the Municipality shall be the 50% Renewable Clean Power Product, as that term is defined in the 2024 ESA. If the municipality elects to do so, as set forth in clause 4.10 of Exhibit A of the 2024 ESA Template , the Default Product may be modified to the 100% Renewable Clean Power Product, as that term is defined in the 2024 ESA. Such amendment shall have substantially the same terms outlined in the attached Amendment to the 2024 ESA (Attached as Exhibit 2)
- h. **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 Municipality.
- i. **Electric Service Agreement (“ESA”):** An agreement that implements a CCA Program and contains all the terms and conditions of the Program.
- j. **Eligible Customers** – Customers of electricity eligible to participate in the CCA Program, either on an opt-out or opt-in basis, as delineated in the CCA Framework Order and the CCA Framework Modification Order. Competitive Supplier may provide Firm Full-Requirements Power Supply to Eligible Customers who are not Opt-out Eligible Customers at Competitive Supplier’s sole discretion on an opt-in basis. For the avoidance of doubt, all Eligible Customers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality and served by the Distribution Utility, as such boundaries exist on the Effective Date of this ESA.
- k. **Participating Municipality:** A dues-paying municipal member of Sustainable Westchester, which has adopted the applicable local legislation for the CCA Program.
- l. **Opt-out Eligible Customers:** Eligible Customers that are eligible for Opt-out treatment as delineated in the CCA Framework Order and the CCA Framework Modification Order. For the avoidance of doubt, Opt-out Eligible Customers shall not include customers that have previously opted-out of the Program.
- m. **Participating Customers:** Eligible Customers enrolled in the Program, including Opt-out Eligible Customers who have been enrolled subsequent to the opt-out process and other customers who have been enrolled after opting in.
- n. **Program Manager:** Sustainable Westchester, a non-profit corporation of which the Participating Municipality is a member.
- o. **Public Service Commission (“PSC”):** The New York State Public Service Commission or the New York State Department of Public Service acting as staff on behalf of the PSC, or any successor state agency.
- p. **Qualifications Review:** A verification of the status of the Competitive Supplier as an electricity supplier in the Distribution Utility’s service territory. A precondition for attaining such status is that Competitive Supplier has met the credit requirements established by the New York Independent Systems Operator.

- q. **2024 RFP:** The request for proposals to suppliers to provide energy to Participating Customers for the 2024 ESA.
- 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 Aggregation Program (hereafter, the “Program”) that will be managed on its behalf by **Sustainable Westchester, (hereafter, the “Program Manager”)** under the 2024 ESA.
 - b. To affirm that the Participating Municipality and Program Manager agree to adhere to the terms and conditions of the 2024 ESA in the event they execute it.
 - c. To affirm that the Participating Municipality and Program Manager agree to execute the 2024 ESA, subject to the conditions of review and approval outlined in 4(c) and 5(a), below.
- 4. Roles and responsibilities of the Program Manager:** As Program Manager, Sustainable Westchester agrees to perform all duties outlined in the 2024 ESA and, prior to execution of that agreement, Program Manager agrees to:
- a. Provide the involved agencies and parties to the PSC CCA Orders, including, but not limited to, the PSC and 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 collection of indicative pricing and other inputs against which to evaluate the 2024 ESA offers,
 - iii. the preparation of the 2024 ESA,
 - iv. the management of the Request for Proposals (“RFP”) process from preparation of the content to the publication of the RFP and management of firms responding to the RFP,
 - v. the acceptance, secure opening, and review of to the RFP, and
 - vi. the organization of the Qualifications Review, bid evaluation, and selection of a Competitive Supplier, all in a manner that is consistent with this MOU and transparent to the Participating Municipality and firms seeking to be the Competitive Supplier;
 - c. Sign the 2024 ESA in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed qualified for the duration of the 2024 ESA by the Qualifications Review, and
 - ii. such Competitive Supplier’s offer is deemed by the Program Manager to be a Compliant Offer as defined in Section 2 above.
 - 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:** The Participating Municipality agrees to:
- a. Sign the 2024 ESA, in a timely fashion, subject to the conditions that:
 - i. the Competitive Supplier is deemed qualified for the duration of the 2024 ESA by the Qualifications Review, and

ii. such Competitive Supplier’s offer is deemed by the Program Manager to be a Compliant Offer as defined in Section 2 above.

b. If the Municipality elects to do so, as set forth in the 2024 ESA, Exhibit A, Clause 4.10, sign the Amendment to the 2024 ESA to change the default product to the 100% Renewable Clean Power Product, as that term is defined in the 2024 ESA.

6. Term and Termination: Memorandum of Understanding shall expire on the earlier of November 30, 2024 or the date on which the 2024 ESA is signed by the Participating Municipality, the Program Manager, and the selected Competitive Supplier. Participating Municipality shall have the right to terminate this Memorandum of Understanding for any of the reasons set forth in the Termination section of the 2024 ESA attached hereto as Exhibit 1.

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

City/Town/Village of _____

Authorized Official Name and Title: _____

Signature: _____

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices: _____

Sustainable Westchester, Inc.

Authorized Official Name and Title: Noam Bramson, Executive Director

Signature: _____

Address: 40 Green Street, Mount Kisco, NY 10549

Telephone(s): (914) 242-4725

E-Mail Address: noam@sustainablewestchester.org

Address for Notices: 40 Green Street, Mount Kisco, NY 10549

Attachments: Exhibit 1, 2024 MOUA100 - WP Con Ed ESA Template 2024-06-11.docx
Exhibit 2, 2024 MOUA100 - WP Con Ed Amendment template 2024-06-11.docx