

RESOLUTION

**A RESOLUTION APPROVING A POWER SUPPLY AGREEMENT WITH
MC SQUARED ENERGY SERVICES, LLC FOR THE OAK PARK COMMUNITY CHOICE
AGGREGATION PROGRAM FOR A ONE YEAR PERIOD INCLUSIVE OF THE 0.3¢/kWh TO
SUPPORT SUSTAINABILITY AND RENEWABLE ENERGY PROJECTS
WITHIN THE VILLAGE AND AUTHORIZING ITS EXECUTION**

BE IT RESOLVED by the President and Board of Trustees of the Village of Oak Park, Cook County, State of Illinois ("Village"), in the exercise of their home rule powers, that the Power Supply Agreement with MC Squared Energy Services, LLC ("Agreement") for the Oak Park Community Choice Aggregation Power Supply Program is approved for a one (1) year period beginning with the October 2018 meter reads at the ComEd variable rate for electricity and the purchased electricity adjustment factor by ComEd for each applicable month, inclusive of the 0.3¢/kWh to support sustainability and renewable energy projects within the Village, is approved and the Village Manager is authorized to execute the Agreement subject to the review and approval of the Village Attorney.

THIS RESOLUTION shall be in full force and effect from and after its adoption and approval as provided by law.

ADOPTED this 23rd day of July, 2018, pursuant to a roll call vote as follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb	X			
Trustee Andrews				X
Trustee Boutet	X			
Trustee Button	X			
Trustee Moroney	X			
Trustee Taglia	X			
Trustee Tucker	X			

APPROVED this 23rd day of July, 2018.


Anan Abu-Taleb, Village President

ATTEST


Vicki Scaman, Village Clerk

Power Supply Agreement

**AGREEMENT BY AND BETWEEN THE VILLAGE OF OAK PARK
AND MC SQUARED ENERGY SERVICES, LLC TO PROVIDE
FULL-REQUIREMENTS ELECTRICITY SUPPLY AND RELATED SERVICES
FOR THE VILLAGE'S ELECTRIC AGGREGATION PROGRAM**

This Agreement ("*Agreement*") is entered into this 6th day of August, 2018 ("*Effective Date*") between the VILLAGE OF OAK PARK, an Illinois home rule municipal corporation ("*Village*" or "*Oak Park*") and MC Squared Energy Services, LLC, an Illinois limited liability company ("*Supplier*") (collectively also referred to as the "*Parties*").

RECITALS

- A. The Village has established an Electricity Aggregation program ("*Program*") pursuant to the Aggregation Ordinance and the Aggregation Statute, both as defined herein, and will conduct the Program as the opt-out program pursuant to the Aggregation Ordinance and the Aggregation Statute.
- B. In order to identify suppliers of electricity for the Program, the Village conducted a sealed bid request for pricing.
- C. The Village conducted the procurement process pursuant to the bid package attached to and incorporated into this Agreement as Exhibit A ("*Bid Package*").
- D. The Supplier was selected by the Village pursuant to its response to the Bid Package, which response is attached to this Agreement as Exhibit B ("*Bid Response*") and the result of the electronic auction.
- E. The purpose of this Agreement is for the Supplier to provide Full-Requirements Electricity Supply Services and the Program Implementation Services (collectively, the "*Services*") to all Eligible Customers who choose not to opt out of the Program throughout the Term of this Agreement at the Price set forth in Exhibit C ("*Price*").
- F. The Supplier acknowledges and agrees that it has the certifications, authorizations, qualifications, and approvals necessary pursuant to the Requirements of

Law to sell Full-Requirements Electricity Supply to Eligible Customers pursuant to the Agreement, including without limitations that:

- a. The Supplier is certified by the Illinois Commerce Commission as a Retail Electric Supplier and is authorized to sell Full-Requirements Electricity Supply to customers in the State of Illinois utilizing the existing transmission and distributions cycle of ComEd within the service areas of ComEd;
- b. Supplier is currently registered with ComEd to serve residential and small commercial customers under Rate RESS – Retail Electric Supplier Service with Rider PORCB – Purchase of Receivables and Consolidated Billing; and
- c. The Supplier has at least three (3) years continuous experience as a Retail Electric Supplier providing Full-Requirements Electricity Supply to at least 25,000 residential and commercial customers.

G. The Supplier acknowledges and agrees that it will provide the Services, including without limitation Full-Requirement Electricity Supply to all Participating Customers, pursuant to the Bid Package, the Bid Response, this Agreement, and the Requirements of Law.

H. The Village desires to enter into this Agreement with the Supplier to provide Full-Requirements Electricity Supply by the Supplier to all Eligible Customers pursuant to the Program.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Village and the Supplier do hereby agree as follows:

ARTICLE 1: RECITALS

The foregoing recitals are, by this reference, fully incorporated into and made part of this Agreement.

ARTICLE 2: DEFINITIONS

1. ***"Aggregate"*** means the total number of Eligible Customer in the Village.
2. ***"Aggregation Ordinance"*** means that certain ordinance adopted by the Village on May 28, 2013 as Ordinance Number 2013-29 authorizing the Program.

3. ***"Aggregation Statute"*** mean Section 1-92 of the Illinois Power Agency Act, 20 ILCS 3855/1-92.
4. ***"Bid Package"*** means the response submitted by the Supplier to the Bid Package, which is attached to this Agreement as Exhibit A.
5. ***"Bid Response"*** means the response submitted by the Supplier to the Bid Package, which is attached to this Agreement as *Exhibit B, and the winning bid*.
6. ***"Billing Service"*** means those services described in Section 4.4 of this Agreement, including all subsections of Section 4.4.
7. ***"ComEd"*** mean Commonwealth Edison.
8. ***"Community Choice Aggregation Fund"*** means a fund maintained by the Village that collects fees paid by the Supplier for the purposes of supporting the Village's sustainability initiatives.
9. ***"Compliance Services"*** means those services identified in Section 4.5 of this Agreement, including all subsections of Section 4.5.
10. ***"Confidential Information"*** is defined in Section 9.1 of this Agreement.
11. ***"Customer Information"*** means that certain information that the Electric Utility is required to provide to the corporate authorities of the Village pursuant to the Aggregation Statute without those names and addresses of residential and small commercial retail customers in the Aggregate area that are reflected in the Electric Utility's records at the time of the request.
12. ***"Data"*** is defined in Section 9.2 of this Agreement.
13. ***"Electric Utility"*** means ComEd.
14. ***"Eligible Customers"*** means residential and small commercial electricity customers receiving Full-Requirements Electricity Supply within the Village who are eligible to participate in the Program pursuant to the Aggregation Statute and the Requirement of Law, and as set forth in Exhibit C, attached hereto and incorporated herein by reference.

15. ***"Eligible Customer Class Price"*** means a variable rate for electricity supply equal to the published Rate BES (Basic Electricity Service) and the Purchased Electricity Adjustment Factor by ComEd for each applicable month.
16. ***"Energy"*** means generated electricity.
17. ***"Enrollment Services"*** means those services described in Section 4.3 of this Agreement including all subsections of Section 4.3.
18. ***"Extended Term"*** is defined in Section 5.1 of this Agreement.
19. ***"Force Majeure Event"*** is defined in Section 7.1 of this Agreement.
20. ***"Full Requirements Electricity Supply"*** means all services or charges necessary to provide the continuous supply of electricity to all Eligible Customers, including: without limitation, energy, capacity, losses, renewable portfolio standard (RPS) charges, imbalances, load factor adjustments, transmission costs, congestion charges, marginal losses, ancillary services, applicable taxes, and any additional necessary services or charges.
21. ***"Full-Requirements Electricity Supply Services"*** means those portions of the Services described in Section 4.1 of this Agreement, including all subsections of Section 4.1.
22. ***"ICC"*** means the Illinois Commerce Commission.
23. ***"Independent System Operator" or "ISO"*** means that certain independent system operator for the Electric Utility established pursuant to Section 16-126 of the Public Utilities Act, 220 ILCS 5/16-626.
24. ***"Joint Power Supply Bid"*** means the bidding process conducted by the Village to identify a Supplier.
25. ***"New Customers"*** are defined in Section 4.3.9 of this Agreement.
26. ***"Opt-Out Notice"*** means the notices described in Section 4.2.1.1 of this Agreement and provided to Eligible Customers informing them of their ability to opt-out of the Program pursuant to the Act and the Requirements of Law.

27. *"Opt-Out Period"* means the time prior to the implementation of the Program during which Eligible Customers may choose not to participate in the Program pursuant to the Act and the Requirements of Law.
28. *"Opt-Out Process"* is defined in Section 4.2.1 of this Agreement.
29. *"Participating Customers"* means those Eligible Customers who do not opt out of the Program and are not Special Billing Customers.
30. *"Plan of Governance"* or *"POG"* means that certain Plan of Governance approved by the Village pursuant to the Aggregation Statute.
31. *"Point of Delivery"* means the point specified by the Electric Utility at which the Supplier must deliver the Full-Requirement Electricity Supply to the Electric Utility for distribution to Participating Customers.
32. *"Price"* means the price expressed in cents per kilowatt-hour at which the Supplier will provide the Services as set forth in Exhibit C to this Agreement.
33. *"Program"* means the electricity aggregation program operated by the Village in accordance with the Aggregation Statute and authorized by the Aggregation Ordinance, to aggregate residential and small commercial retail electrical loads located within the corporate limits of the Village for the purpose of soliciting and entering into service agreement to facilitate for those loads the sale and purchase of Full-Requirements Electricity Supply and related Services.
34. *"Program Implementation Services"* means those portion of the Services described in Section 4.2 of this Agreement, including all subsections of Section 4.2.
35. *"Purchased Electricity Adjustment Factor"* means a unit credit or charge that, through its application, periodically equalizes applicable revenues from retail customers taking service under Rate BES for electric power and energy procured for them by ComEd in accordance with the Purchased Electricity Adjustment Factor section of ComEd Rider Purchased Electricity (Rider PE).
36. *"Requirements of Law"* means the Aggregation Ordinance, the Aggregation Statute, the Illinois Public Utilities Act, 220 ILCS 5/1-101 *et seq.*, the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*, the Plan of Governance, the Intergovernmental Agreement, the rules and regulations and final

decisions of the ICC, the rules, regulations and tariffs applicable to the Electric Utility and the Independent System Operator, and all other applicable federal, state, and local laws, orders, rules, and regulations.

37. *"Retail Electric Supplier" or "RES"* means an "alternative retail electric supplier" as that term is defined in Section 16-102 of the Illinois Public Utilities Act, 220 ILCS 5/16-102.

38. *"Services"* means the Full-Requirements Electricity Supply Services, Program Implementation Services, Enrollment Services, Billing Services, and Compliance Services provided in Article 4 of this Agreement.

39. *"Special Billing Customers"* are defined in Section 4.3.8 of this Agreement.

40. *"Supplier"* means MC Squared Energy Services, LLC, or its lawful successor, transferee, designee, or assignee thereof.

41. *"Tariffed Service"* means the applicable tariffed services provided by the Electric Utility as required by 220 ILCS 5/16-103 and defined in its rates on file with the ICC pursuant to Article IX of the Illinois Public Utilities Act, 220 ILCS 5/9-101 *et seq.*

42. *"Term"* is defined in Section 5.1 of this Agreement.

43. *"Village"* means the Village of Oak Park.

44. *"Withdrawing Customer"* is defined in Section 4.3.6 of this Agreement.

ARTICLE 3: PROGRAM RESPONSIBILITIES

3.1 The Village Responsibilities.

3.1.1 Customer Information. The Supplier and the Village shall cooperate to obtain the Customer Information from ComEd and the Village's electricity supplier as of the date of this Agreement, if applicable, subject to the limitation on disclosure of the Customer Information established by the Requirements of Law, including without limitation the Aggregation Statute, Section 16-122 of the Public Utilities Act, 220 ILCS 5/16-102, and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505-2HH.

3.1.2 Notices from ComEd. The Village shall promptly forward to the Supplier any notice received by the Village from ComEd concerning the accounts of Participating Customers.

3.1.3 No Village Obligations to Provide Services. The parties acknowledge that the Village is not responsible to provide, and this Agreement shall not be construed to create any responsibility for the Village to provide, the Services to any person or entity, including without limitation the Supplier, the Electric Utility, the ISO, Eligible Customers, Special Billing Customers, or Participating Customers.

3.1.4 No Village Financial Responsibility. The parties acknowledge and agree that this Agreement does not impose or create, and shall not be construed to create, any financial obligation of the Village to any other person or entity, including without limitation the Supplier, the Electric Utility, the ISO, Eligible Customers, Special Billing Customers, or Participating Customers.

3.2 The Supplier Obligations.

3.2.1 Provision of Services. The Supplier will provide all of the Services described in Article 4 of this Agreement throughout the Term, including but not limited to the provision of sufficient Full-Requirements Electricity Supply to allow the Electric Utility to deliver and distribute uninterrupted electric service to all Participating Customers. The Supplier acknowledges and agrees that the Village is not responsible to provide, and shall not be liable to the Supplier or any Eligible Customer for any failure to provide, any Services pursuant to this Agreement.

3.2.2 Compliance with the Requirements of Law. The Supplier shall comply with all the terms and conditions of the Requirements of Law. To the extent that Requirements of Law require action or support by the Village, the Village shall complete such action or provide such support within a reasonable timeframe.

ARTICLE 4: THE SUPPLIER SERVICES

4.1 Full-Requirements Electricity Supply: The Supplier must supply the following Full-requirements Electricity Supply Services as provided in this Section 4.1.

4.1.1 Scheduling, Transmission and Delivery of Full-Requirements Electricity Supply.

4.1.1.1 Generally. The Supplier shall take all actions necessary to arrange for the scheduling, transmission, and delivery of Full-Requirements Electricity Supply to the Electric Utility for distribution to all Participating Customers.

4.1.1.2 Scheduling. The Supplier shall schedule the Full-Requirements Electricity Supply for distribution as required by the ISO and the Electric Utility.

4.1.1.3 Distribution and Transmission Rights. The Supplier will arrange for necessary distribution and transmission rights necessary for the delivery of the Full-Requirements Electricity Supply to the Electric Utility hereunder.

4.1.1.4 Transmission and Delivery to Electric Utility.

4.1.1.4.1 Transmission and Delivery. The Supplier will cause to be transmitted and deliver to the Electric Utility at the Delivery Point sufficient energy to provide continuous Full-Requirements Electricity Supply to all Participating Customers. The Village acknowledges that the Electric Utility, and not the Supplier, is responsible for the distribution of the Full-Requirements Electricity Supply to the Participating Customers after delivery by the Supplier to the Delivery Point, and that the Supplier does not take responsibility for the distribution of the Full-Requirements Electricity Supply to Participating Customers after the Supplier provides Full-requirements Electricity Supply to the Point of Delivery.

4.1.1.4.2 Failure of Delivery. The Supplier acknowledges and agrees that if the Supplier fails to provide the Full-Requirements Electricity Supply to this Agreement, including without limitation if the Supplier fails to schedule all or part of the Full-Requirements Electricity Supply for any Participating Customer, the Supplier shall be solely responsible for any additional costs, charges, or fees incurred because of such failure, and shall not pass through any such additional costs, charges, or fees to Participating Customers.

4.1.2 Pricing. Except as provided in Section 7.2 of this Agreement, the Supplier shall receive the Price in full payment for all Services, and shall not be entitled to any additional costs, adjustments, charges, fees, or any other payment or compensation according to the terms of Exhibit C.

4.1.3 Intentionally Left Blank

4.1.4 Billing. The Village acknowledges and agrees that ComEd will bill Participating Customers for the price of the Full-Requirements Electricity Supply as part of its billing for the distribution of such supply, and that the Supplier shall not be responsible for billing Participating Customers.

4.2 Program Implementation Services. The Supplier must supply the following Program Implementation Services as provided in this Section 4.2:

4.2.1 Opt-Out Process. The Supplier, at its sole cost and expense, shall assist the Village to administer the process by which Eligible Customers are provided with the opportunity to opt-out of the Program prior to its implementation (the "*Opt-Out Process*"), including, but not limited to, the following:

4.2.1.1 Opt-Out Notices. The Supplier, at its own expense, shall assist the Village in mailing form Opt-Out Notices to all Eligible Customer as required pursuant to the Requirement of Law. Opt-Out Notices must include all information required pursuant to the Requirement of Law, including without limitation the terms and conditions of participation in the Electric Aggregation Program, the cost to the Customer of Full-Requirements Electricity Supply under the Program, the methods by which the Customers may opt-out of the Program, and the length of the Opt-Out Period. The Opt-Out Notices must prominently include the toll-free telephone number and secure website described in Section 4.2.1.3. The form and content of the Opt-Out Notices must be approved by the Village prior to mailing.

4.2.1.2 Notice to Special Billing Customers. The Village acknowledges and will certify to the Supplier that it will provide notices to Special Billing Customers concerning the Program, the Price, the rates charged to the Special Billing Customers under their existing service, and the opportunity for the Special Billing Customers to opt-in to the Program as provided in section 4.3.9 of this Agreement.

4.2.1.3 Toll-Free Number and Secure Website. In addition to receiving completed Opt-Out Notices from Eligible Customers by mail, the Supplier shall, at its own expense, provide, operate, and maintain a toll-free number and secure website for the use of Eligible Customer to opt-out of the Program. The toll-free number must be operational during normal business hours and the secure website must be operational 24 hours a day, seven days a week during the Opt-Out Period. The Opt-Out Notices must prominently include both the toll-free number and the internet address of the secure website.

4.2.1.4 Reporting. During the Opt-Out Period, the Supplier is responsible for receipt of all Opt-Out notices. The Supplier must assemble, track, and report to the Village concerning the delivery and receipt of all Opt-Out Notice to and from Eligible Customers, including without limitation providing the Village with complete information concerning all Eligible Customers who choose to opt-out of the Program whether by mail, the toll-free telephone number, or the secured website.

4.2.2 Required Disclosures. The Supplier shall provide Eligible Customers with all information required to be disclosed to eligible Customers concerning Full-Requirements Electricity Supply and the program pursuant to the Requirements of Law, including without limitation all information required to be included in the Opt-Out Notices. Such disclosures shall also include the Terms and Conditions of Service and Uniform Disclosure Statement set forth in Exhibit D, attached hereto and incorporated herein by reference.

4.2.3 Disclosures to ICC. The Village shall provide such assistance as is necessary for the Supplier to provide to the ICC pursuant to 83 Ill. Admin. Code 470.200(a) required information within three (3) business days of the effective date of this Agreement.

4.3 Enrollment Services. The Supplier must supply the following Enrollment Services provided in this Section 4.3:

4.3.1 Record of Participating Customers. Following the completion of the Opt-Out Period, the Supplier shall be responsible to compile a complete list of all Participating Customers and those Eligible Customers who have opted out of the

Program, and shall ensure that no eligible Customers who have opted out are enrolled in the Program.

4.3.2 Enrollment. Upon completion of the Opt-Out Process and the identification of all Eligible Customers who have opted out of the Program, the Supplier shall, at its sole cost and expense, take all actions necessary to enroll Participating Customer in the program pursuant to the Requirements of Law.

4.3.3 Term of Enrollment. Participating Customers who do not opt out of the Program shall be enrolled in the Program by the Supplier at the end of the Opt-Out Period, and shall remain enrolled in the Program until the end of the Term, unless the Agreement is terminated pursuant to its terms or the Participating Customer withdraws from the Program pursuant to Section 4.3.6 of this Agreement.

4.3.4 Direct Access Service Request. The Supplier shall submit a direct access service request to ComEd for each Participating Customer in compliance with the "standard switching" subsection of Rate RDS – Retail Delivery Service, in order to allow Full-Requirements Electricity Supply to commence following the Village's implementation schedule which is attached as *Exhibit E* and incorporated herein by reference ("*Implementation Schedule*").

4.3.5 Payment of Switching Fees. The Supplier shall pay, on behalf of each Participating Customer, any switching fee imposed by the Electric Utility related to the enrollment of a Participating Customer in the Program.

4.3.6 Withdrawal by a Participating Customer. For Participating Customers who notify the Supplier after the completion of the Opt-Out Period that the Participating Customers desires to withdraw from the Program ("*Withdrawing Customer*"), the Supplier must, at the direction of the Participating Customer drop the Participating Customer from service with the Supplier.

4.3.7 Customer Service Inquiries. After completion of the Opt-Out Period, the Supplier must maintain and operate a toll-free telephone number and internet website for the purpose of receiving questions and comments from Participating Customers concerning the Full-Requirements Electricity Supply. The Supplier may inform Participating Customers that questions about the delivery and billing of the Full-Requirements Electricity Supply should be directed to ComEd.

Customer must promptly and courteously address customer service inquiries, as reasonably determined by the Village.

4.3.8 Special Billing Customers. Subject to the Requirements of Law and due to the minimal and/or fixed nature of their existing billing rates, the following Eligible Customers shall not be automatically enrolled in the Program, but may subsequently elect to enroll in the Program as New Customers pursuant to Section 4.3.9 of this Agreement:

- a. Any Eligible Customer in the residential customer class, as described in Section 4.4.2 of this Agreement, that is taking service under the following ComEd rates and riders:
 - Rate BESH – Basic Electric Service Hourly Pricing
 - Rate RDS – Retail Delivery Service
 - Rider POGNM – Net Metering (“Parallel Operation of Retail Customer Generating Materials with Net Metering”)
 - b. Any Eligible Customer in the commercial customer class, as described in Section 4.4.2 of this Agreement, that is taking service under the following ComEd rates:
 - Rate BESH – Basic Electric Service Hourly Pricing
 - Rate RDS – Retail Delivery Service
 - Rider POGNM – Net Metering
- (collectively, the “*Special Billing Customers*”)

4.3.9 New Customers. After the commencement of the Program and the enrollment of Participating Customers, the Supplier shall, at the request of the Village or of a New Customer, as defined in this Section 4.3.9 immediately enroll the following customers in the Program and provide Full-Requirements Electricity Supply to those customers at the Price:

- a. Any Eligible Customer within the Village that moves to a new location within the Village;
- b. Any Eligible Customer that moves into an existing or new facility within the Village.
- c. Any Eligible Customer that previously opted out of the Program during the Opt-Out Period; and
- d. Any Eligible Customer that was inadvertently omitted from the list of Participating Customers and not enrolled in the Program (collectively, the “*New Customers*”).

4.4 Billing Services. The Supplier must supply the following Billing Services as provide in this Section 4.4:

4.4.1 Billing Generally. The Supplier shall confirm that billing to Eligible Customer will be provided by ComEd under a consolidated billing format pursuant to "Rider PORCB – Purchase of Receivables and Consolidated Billing," and pursuant to the Requirements of Law.

4.4.2 Customer Classes. Participating Customer shall be categorized within either the residential or commercial customer classes according to the applicable rates under which they received electricity supply from ComEd prior to participating in the Program.

4.4.2.1 Residential Customer Class. The residential customer class shall include Participating Customer taking service from ComEd under the following rates:

- *Residential Single Family without Electric Space Heat Delivery Class*
- *Residential Multi Family without Electric Space Heat Delivery Class*
- *Residential Single Family with Electric Space Heat Delivery Class*
- *Residential Multi Family with Electric Space Heat Delivery Class*

4.4.2.2 Commercial Customer Class. The commercial customer class shall include those Participating Customers taking service from ComEd under the following rates and consuming less than 15,000 kWh in the prior year as determined by ComEd:

- *Watt-Hour Delivery Service*
- *Small Load Delivery Service*

4.5 Compliance Services. The Supplier shall assist the Village in complying with any current or future Requirements of Law concerning the operation of the Program, including without limitation the provision of the report or other information as the Village may reasonably request from time to time.

ARTICLE 5: TERM

5.1 Term. This Agreement shall take effect on the Effective Date as defined herein and electric supply service shall begin with the October 2018 meter read dates and shall expire on the October 2019 meter read dates (the "*Term*"). The Village and the Supplier may extend the Term for an additional period by written agreement approved and

executed by each of them (each an "*Extended Term*"). Nothing in this Article 5 related to the Term or the possibility of agreement to an Extended Term may be construed or applied in any manner to create any expectation that any right or authority related to this Agreement granted by the Village to the Supplier will continue beyond the Term or an Extended Term.

ARTICLE 6: REMEDIES

6.1 The Village's General Remedies. In addition to every other right or remedy provided to the Village under this Agreement, if the Supplier fails to comply with any of the provisions of this Agreement (for reasons other than an order, rule, or regulations of a governmental agency or court having jurisdiction over the Supplier and this Agreement) then the Village may give notice to the Supplier specifying that failure. The Supplier shall have fifteen (15) calendar days after the date of that notice to take all necessary steps to fully comply fully with this Agreement, unless (a) this Agreement specifically provides for a shorter cure period or (b) an imminent threat to the public health, safety, or welfare arises that requires a shorter cure period, in which case the notice must specify the cure period, or (c) compliance cannot be reasonably be achieved within fifteen (15) calendar days but the Supplier promptly commences a cure and diligently pursues the cure to completion. If the Supplier fails to promptly commence a cure and diligently pursue the cure to completion, then the Village, subject to the limits of applicable federal or State of Illinois law, may take any one or more of the following actions:

- a. Seek specific performance of any provision of this Agreement or seek other equitable relief, and institute a lawsuit against the Supplier for those purposes.
- b. Institute a lawsuit against the Supplier for breach of this Agreement and seek remedies and damages as the court may award.
- c. In the case of noncompliance with a material provision of this Agreement, declare this Agreement to be terminated in accordance with the following:
 - (1) The Village will give written notice to the Supplier of the Village's intent to terminate this Agreement ("*Termination Notice*"). The notice will set forth with specificity the nature of the noncompliance. The Supplier will have thirty (30) calendar days after receipt of the notice to object in writing to termination, to state its reasons for that objection, and to propose a remedy for the circumstances. If the Village has not received a response or any remedy proposed by the Supplier, then the Village will conduct a hearing on the proposed termination. The Village will serve notice of that hearing on the Supplier at least ten (10) business days prior

to the hearing, specifying the time and place of the hearing and state the Village's intent to terminate this Agreement.

(2) At the hearing, the Supplier will have the opportunity to state its position on the matter, present evidence, and question witnesses. Thereafter, the Village will determine whether or not this Agreement will be terminated. The hearing must be public and held on the record.

(3) The decision of the Village must be in writing and delivered to the Supplier by certified mail.

If the rights and privileges to the Supplier under this Agreement are terminated, then the Supplier, within fourteen (14) calendar days after the Village's demand, must reimburse the Village for all costs and expenses incurred by the Village, including, without limitation, reasonable attorney's fees, in connection with that termination of rights or with any other enforcement action undertaken by the Village.

6.2 The Supplier's General Remedies. In addition to every other right or remedy provided to the Supplier under this Agreement, if the Village breaches to perform any of its Responsibilities or duties contained in this Agreement in any material respect, which are not otherwise excused by any other provision of this Agreement or are not cured in all material respects within fifteen (15) calendar days, or if any Representatives or Warranties made by the Village are untrue when made, then the Supplier shall have the right to terminate this Agreement, at which time Participating Customers may be moved back to Tariffed Service and the Supplier can seek, along with any other remedy available at law or in equity, reimbursement for all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Supplier in carrying out its duties under this Agreement.

ARTICLE 7: FORCE MAJEURE EVENTS; REGULATORY EVENTS AND ADDITIONAL CHARGES, TAXES OR LEVIES

7.1 Force Majeure Events. The Supplier shall not be held in default under, or in noncompliance with, the provisions of the Agreement, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise) where such noncompliance or alleged defaults occurred or were caused by a "Force Majeure Event" defined as strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado, or any other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Supplier's ability to anticipate

or control. Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

7.2 Regulatory Event. A "Regulatory Event" shall mean any time that any branch, agency, instrumentality, or court of the federal, regional (interstate), state, regional (inter-municipality), or local government takes an action that: (1) alters the market rules under which the Supplier operates, including the magnitude or allocation of costs to the Supplier, and (2) is applicable to similarly situated RES. For the purposes of this Agreement, "Regulatory Event" shall not include mere changes in market prices for any component of Full-Requirements Electric Supply Services, but would include changes in market prices due to changes in regulation of such components. For the avoidance of doubt, the following shall constitute a "Regulatory Event":

a. **Illegality.** It becomes unlawful for a Party to perform any obligation under this Agreement due to the adoption of, or change in the interpretation of any applicable law by any judicial or government authority with competent jurisdiction.

b. **Adverse Government Action.** A regulatory, legislative or judicial body (A) requires a material change to the terms of this Agreement that materially and adversely affects a Party, (B) takes action that adversely and materially impacts a Party's ability to perform or requires a delay in the performance of this Agreement that either Party determines to be unreasonable, or (C) orders a change or modification that affects the Program such that either Party's obligations hereunder are materially changed, and the change is not deemed a Force Majeure Event.

c. **New Taxes/Legislative or Regulatory Charges/Surcharges.** Any new charges/surcharges, tax or increases in such tax, or an application of such tax to a new or different class of parties, which is enacted or levied on the Supplier, not recoverable by the Supplier from Participating Customers pursuant to Section 7.3 below, and effective after the Execution Date, except federal and state income taxes, employee taxes or other taxes assessed against the business of the Supplier or the delivery of services under this Agreement.

7.3 Occurrence of Regulatory Event. In the occurrence of a Regulatory Event that results in the imposition of a generally applicable additional charge, tax, or levy upon the Supplier, and similarly situated RES, then the Supplier will adjust the Price to reflect such additional charge, tax or levy by the following procedure:

a. The Supplier shall provide written notice to the Village within thirty (30) days after the occurrence of such action or inaction, of: (i) the nature of the action or inaction; (ii) the adjustment of the Price for the applicable Term and (iii) the date on which the price adjustment will become effective.

b. Within thirty (30) days after receipt of the notice described in Section 7.3(a), the Village shall have the right to request a meeting with the Supplier to review the action or inaction, and the price adjustment, identified by the Supplier. The Supplier and the Village shall meet within five (5) business days after delivery of such request to the Supplier, and shall cooperate in good faith to resolve any dispute regarding the price adjustment. Provided that nothing herein shall prevent the price adjustment from becoming effective on Participating Customers bills on the date noticed pursuant to 7.3(a) above.

c. The Supplier shall continue to provide the Services during any such negotiations, unless prohibited by law or regulation. This Section 7.3 shall not apply to any fine or penalty assessed against the Supplier as a result of any failure by the Supplier to comply with applicable laws and regulations.

ARTICLE 8: INDEMNIFICATION AND INSURANCE

8.1 Indemnification.

8.1.1 The Supplier shall indemnify, hold harmless and defend the Village, its officers, employees, agents and attorneys, from and against any injuries, claims, demands, judgements, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising in the course of the Supplier's provision of the Services to the extent of fault of the Supplier, including the Supplier's negligent acts, errors or omissions. This duty shall survive for all claims made or actions filed within one (1) year following either the expiration or earlier termination of this Agreement. The Village shall give the Supplier timely written notice of its obligation to indemnify and defend the Village after the Village's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Supplier and/or the Village. Nothing herein shall be construed to limit the Supplier's duty to indemnify the Village by reference to the limits of insurance coverage described in this Agreement.

8.1.2 The Village shall indemnify, hold harmless and defend the Supplier, its officers, employees, agents and attorneys, from and against any injuries, claims, demands, judgements, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising in the course of the Supplier's provision of the Services to the extent of fault of the Village, including the Village's negligent acts, errors or omissions. This duty shall survive for all claims made or actions filed within one (1) year following either the expiration or

earlier termination of this Agreement. The Supplier shall give the Village timely written notice of its obligation to indemnify and defend the Supplier after the Supplier's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Supplier and/or the Village.

8.2 Insurance. Contemporaneous with the Supplier's execution of this Agreement, the Supplier shall provide certificates and policies of insurance, all with coverages and limits acceptable to the Village, and evidencing at least the minimum insurance coverage and limits as set forth in Exhibit F ("Insurance") to this Agreement. For good cause shown, the Village Manager, or the Manager's designee may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as the Village Manager, the Manager's designee may impose in the exercise of the Manager's sole discretion. Such certificates and policies shall be in a form acceptable to the Village and from companies with general rating of A minus, and a financial size category of Class X or better, in Best's Insurance Guide. Such insurance policies shall provide that no change, modification in, or cancellation of, any insurance shall be effective until the expiration of thirty (30) days after written notice thereof shall have been given by the insurance company to the Village. The supplier shall, at all time during the term of this Agreement, maintain and keep in force, at the Supplier's expense, the insurance coverages provided above.

8.3 Liability. Except as otherwise specifically provided herein, in no event will either Party be liable under this Agreement to the other Party, to a participating customer or third party for any incidental, indirect, special consequential or punitive damages in connection with or arising out of any performance or non-performance of this Agreement or any event of default, regardless of whether such claims are based on breach of warranty, tort (including but not limited to negligence of any degree), strict liability, contract, operation of law, equity or otherwise.

ARTICLE 9: CONFIDENTIAL INFORMATION

9.1 Confidential Information. All information and data disclosed by either Party to the other Party are developed or obtained under this Agreement must be treated by the other Party as proprietary and confidential information ("Confidential Information"). A Party must not disclose Confidential Information without the other Party's prior written consent. No person may use Confidential Information for any purpose other than for the proper performance of the Services. The obligations under this Section 9 do

not apply to Confidential Information that is (i) in the public domain without breach of this Agreement. (ii) developed by a Party independently from this Agreement. (iii) received by a Party on a non-confidential basis from others who had a right to disclose the information, (iv) required by law to be disclosed, but only after prior written notice has been received by the disclosing Party and the disclosing Party has had a reasonable opportunity to protect disclosure of the Confidential Information. The Village hereby agrees, unless otherwise required by the Illinois Freedom of Information Act or other applicable law or regulation, to keep all Confidential Information confidential and not to, directly or indirectly, disclose or reveal to any third party, reproduce or utilize for its own benefit, other than pursuant to this Agreement, any Confidential Information and any information derived therefrom. The Village further agrees to immediately notify the Supplier in writing in the event it discovers any unauthorized disclosure of Confidential Information and agrees to take all reasonable steps to preserve the confidentiality of Confidential Information. The Village shall assume responsibility that its agents, representatives, elected officials, officers and employees will similarly preserve Confidential Information and agree to limit access to Confidential Information to only those agents, representatives, elected officials, officers and employees that have bona fide need to know Confidential Information. The Village agrees that upon termination of this Agreement, the Village will discontinue all use of Confidential Information and, at no cost to the Supplier, promptly return all Confidential Information received by it during the Term and any information derived therefrom. The confidentiality obligations of the Village under this section shall survive termination of this Agreement. The Village also agrees that its obligations under this Article 9 shall also apply to any confidential information or trade secrets of any third party with whom the Supplier has agreed to keep confidential and not disclose, and which the Village has actual or constructive notice of such agreement.

9.2 Ownership of Data and Documents. All data and information, regardless of format, developed or obtained under this Agreement ("*Data*"), other than the Supplier's confidential information, will be and remain the sole property of the Village. The Supplier must promptly deliver all Data to the Village at the Village's request. The Supplier is responsible for the care and protection of the Data until that Delivery. The Supplier may retain copies of the Data for the Supplier's records subject to the Supplier's continued compliance with the provisions of this Agreement and the Supplier's compliance with Requirements of Law, including record retention requirements.

ARTICLE 10: MISCELLANEOUS

10.1 Notices. Any notices, requests or demand regarding the services provided under this Agreement and the Attachments shall be deemed to be properly given or made (i) if by hand delivery, in the day and at the time on which delivered to the intended recipient at its address set forth in this Agreement; (ii) if sent by U.S. Postal Service mail certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address shown below; or (iii) if by Federal Express or other reputable express mail service, on the next Business Day after delivery to such express service, addressed to the intended recipient at its address set forth in this Agreement. The address of a Party to which notices or other communications shall be mailed may be changed from time to time by giving written notice to other Party.

To the Village:
Village Manager
Village of Oak Park
123 Madison Street
Oak Park, Illinois 60302

To Supplier:
Charles C. Sutton
President
MC Squared Energy Services, LLC
175 West Jackson Boulevard, Suite 240
Chicago, Illinois 60604

With a copy to:

Village Attorney
Village of Oak Park
123 Madison Street
Oak Park, Illinois 60302

Jeremiah McGair
Senior Counsel
Wolverine
175 West Jackson Boulevard, Suite 240
Chicago, Illinois 60604

10.2 Entire Agreement. This Agreement, including all Attachments hereto, contains all of the terms and conditions of this Agreement reach by the Parties, and supersedes all prior oral or written agreement with respect to this Agreement. This Agreement may not be modified, amended, altered or supplemented, except by written agreement signed by all Parties hereto. No waiver of any term, provision, or conditions of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute a waiver of any other provision hereof, whether or not similar, nor shall such waiver constitute a continuing waiver, and no waiver shall be binding unless executed on writing by the Party making the waiver.

10.3 Exhibits. Exhibits A through F attached to this Agreement are, by this reference, incorporated into and made part of this Agreement.

10.4 Waivers. The failure of either Party to insist upon strict performance of such requirements or provisions or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment of such requirements, provisions or rights.

10.5 Applicable Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

10.6 Controlling Provisions. In the event of any inconsistency between the terms herein and the terms in the Exhibits hereto, the provisions of the Agreement shall control. The obligations of the Supplier and Participating Customers including without limitation, renewal terms with the Participating Customers, as set forth in Exhibit F, shall govern the relationship between the Supplier and Participating Customers upon termination of the Agreement.

10.7 Severability. Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions or affecting the validity or enforceability of such provision in any other jurisdiction. The non-enforcement of any provision by either Party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or the remainder of this Agreement.

10.8 Venue. Except as to any matter within the jurisdiction of the Illinois Commerce Commission, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, Cook County, Illinois. Any matter brought pursuant to the jurisdiction of the federal court shall be brought in the United States District Court of the Northern District of Illinois.

10.9 No Third-Party Beneficiaries. Nothing in this Agreement is intended to confer third -party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Agreement.

10.10 No Waiver of Rights. Nothing in this Agreement shall be construed as a waiver of any rights, substantive or procedural, that the Village may have under Federal or state law unless such waiver is expressly stated herein.

10.11 Validity of Agreement. The Parties acknowledge and agree in good faith on the validity of the provisions, terms and conditions of this Agreement, in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

10.12 Authority to Sign Agreement. The Supplier warrants to the Village that it is authorized to execute, deliver and perform this Agreement. The individual signing this Agreement on behalf of the Supplier warrants to the Village that he is authorized to execute this Agreement in the name of the Supplier.

10.13 Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Village and the Supplier and their respective successors, grantees, lessees, and assigns throughout the Term of this Agreement.

10.14 Non-Assignability. This Agreement shall not be transferred or assigned by either Party without the express written authorization of the other Party, which consent shall not be unreasonably withheld.

10.15 Counterparts; PDF/Email of Facsimile. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one instrument. A facsimile or pdf/email copy of this Agreement and any signature(s) thereon will be considered for all purposes as an original.

10.16 Effective Date. As used in this Agreement, the Effective Date of this Agreement shall be the date that the Village Manager for the Village of Oak Park executed this Agreement as set forth below.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective on the dates set forth below.

VILLAGE OF OAK PARK



Name: Cara Pavlicek
Title: Village Manager

Date: August 6, 2018

ATTEST:



Name: Vicki Scaman
Title: Village Clerk

Date: August 6, 2018

MC SQUARED ENERGY SERVICES,
LLC



Name:
Title:

Date: August __, 2018

ATTEST:



Name:
Title:

Date: August __, 2018

REVIEWED AND APPROVED
ASTORIA



10/08/18
LAW DEPARTMENT

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective on the dates set forth below.

VILLAGE OF OAK PARK



Name: Cara Pavlicek
Title: Village Manager

Date: August 6, 2018

ATTEST:



Name: Vicki Scaman
Title: Village Clerk

Date: August 6, 2018

MC SQUARED ENERGY SERVICES,
LLC



Name: CHARLES C SUTTON
Title: PRESIDENT

Date: August 6th, 2018

ATTEST:



Name: ANN DE BORTOLI
Title: DIRECTOR SALES & MARKETING

Date: August 6, 2018


LAWYER





EXHIBIT A - BID PACKAGE