

PRESIDENT  
Dr. James L. Discipio

VILLAGE MANAGER  
Julia A. Cedillo

VILLAGE CLERK  
Amanda G. Seidel



TRUSTEES  
Rimas V. Kozica  
Scott F. Mesick  
Patricia B. Rocco  
Marshall Seeder  
Susan M. Storcel  
LaVelle Topps

## VILLAGE BOARD WORK SESSION

Tuesday, JUNE 12, 2012 – 7:30 p.m.

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### AGENDA

1. **Call meeting to order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Public Participation (Agenda Related Items Only)**
5. **Administration Committee Items**
  - A. Discussion – Prevailing Wage
  - B. Discussion & Action – Electric Power Aggregation Bid Acceptance (Sharon Durling of NIMEC to present bid results)
6. **Public Safety Committee Items**
  - A. Discussion – Purchase of Two (2) Police Vehicles – Joint Purchasing
  - B. Discussion & Action – Fire Sprinkler Variation Request – 1126, 1128, 1130 Maple Avenue
7. **Public Works Committee Items**
  - A. Discussion – Procurement of Street Light Poles for use on La Grange Road
  - B. Discussion – Beach Avenue Parking Lot Parking Regulations Ordinance
  - C. Discussion – South LaGrange Road Water Main Replacement Grant
8. **Public Works Garage Committee Items**
  - A. Discussion – Schematic Design (Alexandra Ladue to present)
9. **Other Reports:**
  - (A) Village Manager
  - (B) Village President
  - (C) Village Clerk
  - (D) Committee
10. **New Business**
11. **Executive Session** - *for the purpose of discussing 1) the appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body according to 5 ILCS 120/2 (c)(1)*

12. **Adjourn**

**VILLAGE BOARD WORK SESSION MEETING**  
**Tuesday, JUNE 12, 2012 – 7:30 p.m.**

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**AGENDA (continued – Page 2**

*Next Village Board Meeting: June 26, 2012*

*Next Village Work Session Meeting: July 10, 2012*



## **RULES FOR PUBLIC COMMENT**

### **Village Board Work Session Meetings Village Board Meetings**

1. Please step up to the microphone before speaking, and announce your name and address before beginning your comments.
2. After announcing your name and address for the record, you will be allowed to speak for three (3) minutes.
3. You may not use profane or obscene language and you may not threaten any person with bodily harm, or engage in conduct which amounts to a threat of physical harm.
4. (a) Agenda-related comments: The Village President reserves the right to disallow comments that are repetitive of comments previously made during the meeting, or comments that do not relate to agenda items.  
  
(b) Non-agenda-related comments: The Village President reserves the right to disallow comments that are repetitive of comments previously made during the meeting, or comments that do not relate to Village business, Village services or Village governance.
5. The Village of La Grange Park complies with the Americans with Disabilities Act of 1990. If you require accommodations in order to observe or participate in the meeting, please contact Ms. Andy Bagley at (708) 354-0225 between 9:00 and 5:00 before the meeting so that the Village can make reasonable accommodations for you.

# **Administration Committee**

**Susan Storcel, Chairwoman**

**Rimas Kozica**

**Patricia Rocco**

# Village Board Agenda Memo

**Date:** June 1, 2012

**To:** President & Board of Trustees

**From:** Julia Cedillo, Village Manager 

**RE:** Prevailing Wages

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## GENERAL BACKGROUND:

Pursuant to state law, municipalities are required to adopt an ordinance ascertaining prevailing wages that must be paid to contractors that install public works pursuant to public contracts. The establishment of prevailing wages to be paid refers only to contractors hired by the Village for applicable projects as defined in the statute. This action has nothing to do with wages that La Grange Park pays to any of its employees.

## MOTION / ACTION REQUESTED:

**Motion:** Move to adopt, "An Ordinance Ascertaining Prevailing Wage Rates for Construction Work in Cook County"

## STAFF RECOMMENDATION:

State statutes require that municipalities adopt such an ordinance. It is staff's recommendation that the Village Board adopt the ordinance.

## DOCUMENTATION:

- An Ordinance Ascertaining Prevailing Wage Rates for Construction Work in Cook County

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE ASCERTAINING THE PREVAILING WAGE RATES  
FOR CONSTRUCTION WORK IN COOK COUNTY**

WHEREAS, the State of Illinois has enacted "An Act regulating wages of laborers, mechanics and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract for public works," approved June 26, 1941, codified as amended, 820 ILCS 130/1 et seq.

WHEREAS, the aforesaid Act requires that the municipality of the Village of La Grange Park investigate and ascertain the prevailing wage rate of wages as defined in said Act for laborers, mechanics and other workers in the locality of Cook County employed in performing construction of public works, for said Village.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LA GRANGE PARK, COOK COUNTY, ILLINOIS, AS FOLLOWS:

**SECTION I.** To the extent and as required by "An Act regulating wages of laborers, mechanics, and other workers employed in any public works by State, county, city or any public body or any political subdivision or by anyone under contract for public works," approved June 26, 1941, as amended, the general prevailing rate of wages in this locality for laborers, mechanics and other workers engaged in construction of public works coming under the jurisdiction of the Village is hereby ascertained to be the same as the prevailing rate of wages for construction work in Cook County as determined by the Department of Labor of the State of Illinois as of June 2012. The definition of any terms appearing in this Ordinance which are also used in aforesaid Act shall be the same as in said Act.

**SECTION II.** Nothing herein contained shall be construed to apply said general prevailing rate of wages as herein ascertained to any work or employment except public works construction of the village to the extent required by the aforesaid Act.

**SECTION III.** The Village Clerk shall publicly post or keep available for inspection this determination of such prevailing rate of wage.

**SECTION IV.** The Village Clerk shall mail a copy of this determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

**SECTION V.** The Village Clerk shall promptly file a certified copy of this Ordinance with the Secretary of State of Illinois.

This ordinance shall be in full force and effect from after its passage, approval and publication as provided by law, effective June 26, 2012.

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of La Grange Park, Cook County, Illinois, this 26<sup>th</sup> day of June, 2012.

\_\_\_\_\_  
James L. Discipio, Village President  
Village of La Grange Park

ATTEST: \_\_\_\_\_  
Amanda G. Seidel  
Village Clerk

Vote taken by the Board of Trustees on passage of the above ordinance:

AYES:

_____	_____
_____	_____
_____	_____
_____	_____

NOS:

_____	_____
_____	_____
_____	_____
_____	_____

CERTIFIED TO BE CORRECT:

\_\_\_\_\_  
*Village Clerk*

APPROVED AS TO FORM-  
VILLAGE ATTORNEY

# Cook County Prevailing Wage for June 2012

(See explanation of column headings at bottom of wages)

Trade Name	RG	TYP	C	Base	FRMAN	*M-F>8	OSA	OSH	H/W	Pensn	Vac	Trng
ASBESTOS ABT-GEN	ALL			35.200	35.700	1.5	1.5	2.0	12.18	8.820	0.000	0.450
ASBESTOS ABT-MEC	BLD			32.850	0.000	1.5	1.5	2.0	10.82	10.66	0.000	0.720
BOILERMAKER	BLD			43.450	47.360	2.0	2.0	2.0	6.970	14.66	0.000	0.350
BRICK MASON	BLD			39.780	43.760	1.5	1.5	2.0	9.300	11.17	0.000	0.730
CARPENTER	ALL			40.770	42.770	1.5	1.5	2.0	12.34	11.25	0.000	0.530
CEMENT MASON	ALL			41.850	43.850	2.0	1.5	2.0	10.70	10.76	0.000	0.320
CERAMIC TILE FNSHER	BLD			33.600	0.000	2.0	1.5	2.0	9.200	6.680	0.000	0.580
COMM. ELECT.	BLD			36.440	38.940	1.5	1.5	2.0	8.420	8.910	0.000	0.700
ELECTRIC PWR EQMT OP	ALL			41.850	46.850	1.5	1.5	2.0	10.27	13.01	0.000	0.320
ELECTRIC PWR GRNDMAN	ALL			32.640	46.850	1.5	1.5	2.0	8.000	10.12	0.000	0.240
ELECTRIC PWR LINEMAN	ALL			41.850	46.850	1.5	1.5	2.0	10.27	13.01	0.000	0.320
ELECTRICIAN	ALL			40.400	43.000	1.5	1.5	2.0	13.83	7.920	0.000	0.750
ELEVATOR CONSTRUCTOR	BLD			48.560	54.630	2.0	2.0	2.0	11.03	11.96	2.910	0.000
FENCE ERECTOR	ALL			32.660	34.660	1.5	1.5	2.0	12.42	10.00	0.000	0.250
GLAZIER	BLD			38.500	40.000	1.5	2.0	2.0	11.49	14.64	0.000	0.840
HT/FROST INSULATOR	BLD			43.800	46.300	1.5	1.5	2.0	10.82	11.86	0.000	0.720
IRON WORKER	ALL			40.750	42.750	2.0	2.0	2.0	13.20	19.09	0.000	0.350
LABORER	ALL			35.200	35.950	1.5	1.5	2.0	12.18	8.820	0.000	0.450
LATHER	ALL			40.770	42.770	1.5	1.5	2.0	12.34	11.25	0.000	0.530
MACHINIST	BLD			43.160	45.160	1.5	1.5	2.0	7.980	8.950	0.000	0.000
MARBLE FINISHERS	ALL			29.100	0.000	1.5	1.5	2.0	9.300	11.17	0.000	0.660
MARBLE MASON	BLD			39.030	42.930	1.5	1.5	2.0	9.300	11.17	0.000	0.730
MATERIAL TESTER I	ALL			25.200	0.000	1.5	1.5	2.0	12.18	8.820	0.000	0.450
MATERIALS TESTER II	ALL			30.200	0.000	1.5	1.5	2.0	12.18	8.820	0.000	0.450
MILLWRIGHT	ALL			40.770	42.770	1.5	1.5	2.0	12.34	11.25	0.000	0.530
OPERATING ENGINEER	BLD	1		45.100	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	BLD	2		43.800	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	BLD	3		41.250	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	BLD	4		39.500	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	BLD	5		48.850	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	BLD	6		46.100	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	BLD	7		48.100	49.100	2.0	2.0	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	FLT	1		51.300	51.300	1.5	1.5	2.0	11.70	8.050	1.900	1.150
OPERATING ENGINEER	FLT	2		49.800	51.300	1.5	1.5	2.0	11.70	8.050	1.900	1.150
OPERATING ENGINEER	FLT	3		44.350	51.300	1.5	1.5	2.0	11.70	8.050	1.900	1.150
OPERATING ENGINEER	FLT	4		36.850	51.300	1.5	1.5	2.0	11.70	8.050	1.900	1.150
OPERATING ENGINEER	HWY	1		43.300	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	HWY	2		42.750	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	HWY	3		40.700	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	HWY	4		39.300	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	HWY	5		38.100	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	HWY	6		46.300	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
OPERATING ENGINEER	HWY	7		44.300	47.300	1.5	1.5	2.0	14.40	9.550	1.900	1.250
ORNAMNTL IRON WORKER	ALL			40.200	42.700	2.0	2.0	2.0	12.67	15.61	0.000	0.500
PAINTER	ALL			38.000	42.750	1.5	1.5	1.5	9.750	11.10	0.000	0.770
PAINTER SIGNS	BLD			33.920	38.090	1.5	1.5	1.5	2.600	2.710	0.000	0.000
PILEDRIIVER	ALL			40.770	42.770	1.5	1.5	2.0	12.34	11.25	0.000	0.530
PIPEFITTER	BLD			44.050	47.050	1.5	1.5	2.0	8.460	13.85	0.000	1.820
PLASTERER	BLD			39.250	41.610	1.5	1.5	2.0	10.60	10.69	0.000	0.550
PLUMBER	BLD			44.750	46.750	1.5	1.5	2.0	11.59	9.060	0.000	0.780
ROOFER	BLD			37.650	40.650	1.5	1.5	2.0	8.380	6.820	0.000	0.430
SHEETMETAL WORKER	BLD			40.560	43.800	1.5	1.5	2.0	9.880	16.54	0.000	0.630
SIGN HANGER	BLD			29.460	29.960	1.5	1.5	2.0	4.800	2.980	0.000	0.000

SPRINKLER FITTER	BLD	49.200	51.200	1.5	1.5	2.0	9.750	8.200	0.000	0.450
STEEL ERECTOR	ALL	40.750	42.750	2.0	2.0	2.0	13.20	19.09	0.000	0.350
STONE MASON	BLD	39.780	43.760	1.5	1.5	2.0	9.300	11.17	0.000	0.730
TERRAZZO FINISHER	BLD	35.150	0.000	1.5	1.5	2.0	9.200	9.070	0.000	0.430
TERRAZZO MASON	BLD	39.010	42.010	1.5	1.5	2.0	9.200	10.41	0.000	0.510
TILE MASON	BLD	40.490	44.490	2.0	1.5	2.0	9.200	8.390	0.000	0.640
TRAFFIC SAFETY WRKR	HWY	28.250	29.850	1.5	1.5	2.0	4.896	4.175	0.000	0.000
TRUCK DRIVER	E ALL 1	33.850	34.500	1.5	1.5	2.0	8.150	8.500	0.000	0.150
TRUCK DRIVER	E ALL 2	34.100	34.500	1.5	1.5	2.0	8.150	8.500	0.000	0.150
TRUCK DRIVER	E ALL 3	34.300	34.500	1.5	1.5	2.0	8.150	8.500	0.000	0.150
TRUCK DRIVER	E ALL 4	34.500	34.500	1.5	1.5	2.0	8.150	8.500	0.000	0.150
TRUCK DRIVER	W ALL 1	32.550	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.000
TRUCK DRIVER	W ALL 2	32.700	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.000
TRUCK DRIVER	W ALL 3	32.900	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.000
TRUCK DRIVER	W ALL 4	33.100	33.100	1.5	1.5	2.0	6.500	4.350	0.000	0.000
TUCK POINTER	BLD	39.950	40.950	1.5	1.5	2.0	8.180	10.57	0.000	0.790

**Legend:** RQ (Region)

TTP (Trade Type - All, Highway, Building, Floating, Oil &amp; Chip, Rivers)

C (Class)

PWR (Base Wage Rate)

FFM (Foreman Rate)

M-F-8 (OT required for any hour greater than 8 worked each day, Mon through Fri.)

O&amp;A (Overtime (OT) is required for every hour worked on Saturday)

O&amp;H (Overtime is required for every hour worked on Sunday and Holidays)

H/W (Health &amp; Welfare Insurance)

Pensn (Pension)

Vac (Vacation)

Trng (Training)

## Explanations

### COOK COUNTY

The following list is considered as those days for which holiday rates of wages for work performed apply: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day in some classifications/counties. Generally, any of these holidays which fall on a Sunday is celebrated on the following Monday. This then makes work performed on that Monday payable at the appropriate overtime rate for holiday pay. Common practice in a given local may alter certain days of celebration. If in doubt, please check with IDOL.

TRUCK DRIVERS (WEST) - That part of the county West of Barrington Road.

### EXPLANATION OF CLASSES

ASBESTOS - GENERAL - removal of asbestos material/mold and hazardous materials from any place in a building, including mechanical systems where those mechanical systems are to be removed. This includes the removal of asbestos materials/mold and hazardous materials from ductwork or pipes in a building when the building is to be demolished at the time or at some close future date.

ASBESTOS - MECHANICAL - removal of asbestos material from mechanical systems, such as pipes, ducts, and boilers, where the mechanical systems are to remain.

### CERAMIC TILE FINISHER

The grouting, cleaning, and polishing of all classes of tile, whether for interior or exterior purposes, all burned, glazed or unglazed products; all composition materials, granite tiles, warning detectable tiles, cement tiles, epoxy composite materials, pavers, glass, mosaics, fiberglass, and all substitute materials, for tile made in tile-like units; all mixtures in tile like form of cement, metals, and other materials that are for and intended for use as a finished floor surface, stair treads, promenade roofs, walks, walls, ceilings, swimming pools, and all other places where tile is to form a finished interior or exterior. The mixing of all setting mortars including but not limited to thin-set mortars, epoxies, wall mud, and any other sand and cement mixtures or adhesives when used in the preparation, installation, repair, or maintenance of tile and/or similar materials. The handling and unloading of all sand, cement, lime, tile, fixtures, equipment, adhesives, or any other materials to be used in the preparation, installation, repair, or maintenance of tile and/or similar materials. Ceramic Tile Finishers shall fill all joints and voids regardless of method on all tile work, particularly and especially after installation of said tile work. Application of any and all protective coverings to all types of tile installations including, but not be limited to, all soap compounds, paper products, tapes, and all polyethylene coverings, plywood, masonite, cardboard, and any new type of products that may be used to protect tile installations, Blastrac equipment, and all floor scarifying equipment used in preparing floors to receive tile. The clean up and removal of all waste and materials. All demolition of existing tile floors and walls to be re-tiled.

#### COMMUNICATIONS ELECTRICIAN

Installation, operation, inspection, maintenance, repair and service of radio, television, recording, voice sound vision production and reproduction, telephone and telephone interconnect, facsimile, data apparatus, coaxial, fibre optic and wireless equipment, appliances and systems used for the transmission and reception of signals of any nature, business, domestic, commercial, education, entertainment, and residential purposes, including but not limited to, communication and telephone, electronic and sound equipment, fibre optic and data communication systems, and the performance of any task directly related to such installation or service whether at new or existing sites, such tasks to include the placing of wire and cable and electrical power conduit or other raceway work within the equipment room and pulling wire and/or cable through conduit and the installation of any incidental conduit, such that the employees covered hereby can complete any job in full.

#### MARBLE FINISHER

Loading and unloading trucks, distribution of all materials (all stone, sand, etc.), stocking of floors with material, performing all rigging for heavy work, the handling of all material that may be needed for the installation of such materials, building of scaffolding, polishing if needed, patching, waxing of material if damaged, pointing up, caulking, grouting and cleaning of marble, holding water on diamond or Carborundum blade or saw for setters cutting, use of tub saw or any other saw needed for preparation of material, drilling of holes for wires that anchor material set by setters, mixing up of holding plaster for installation of material, mixing up thin set for the installation of material, mixing up of sand to cement for the installation of material and such other work as may be required in helping a Marble Setter in the handling of all

material in the erection or installation of interior marble, slate, travertine, art marble, serpentine, alberene stone, blue stone, granite and other stones (meaning as to stone any foreign or domestic materials as are specified and used in building interiors and exteriors and customarily known as stone in the trade), carrara, sanionyx, vitrolite and similar opaque glass and the laying of all marble tile, terrazzo tile, slate tile and precast tile, steps, risers treads, base, or any other materials that may be used as substitutes for any of the aforementioned materials and which are used on interior and exterior which are installed in a similar manner.

**MATERIAL TESTER I:** Hand coring and drilling for testing of materials; field inspection of uncured concrete and asphalt.

**MATERIAL TESTER II:** Field inspection of welds, structural steel, fireproofing, masonry, soil, facade, reinforcing steel, formwork, cured concrete, and concrete and asphalt batch plants; adjusting proportions of bituminous mixtures.

#### OPERATING ENGINEER - BUILDING

Class 1. Asphalt Plant; Asphalt Spreader; Autograde; Backhoes with Caisson Attachment; Patch Plant; Benoto (requires Two Engineers); Boiler and Throttle Valve; Caisson Rigs; Central Redi-Mix Plant; Combination Back Hoe Front End-loader Machine; Compressor and Throttle Valve; Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Conveyor (Truck Mounted); Concrete Paver Over 27E cu. ft; Concrete Paver 27E cu. ft. and Under; Concrete Placer; Concrete Placing Boom; Concrete Pump (Truck Mounted); Concrete Tower; Cranes, All; Cranes, Hammerhead; Cranes, (GCI and similar Type); Creter Crane; Crusher, Stone, etc.; Derricks, All; Derricks, Traveling; Formless Curb and Gutter Machine; Grader, Elevating; Grouting Machines; Highlift Shovels or Front Endloader 2-1/4 yd. and over; Hoists, Elevators, outside type rack and pinion and similar machines; Hoists, One, Two and Three Drum; Hoists, Two Tugger One Floor; Hydraulic Backhoes; Hydraulic Boom Trucks; Hydro Vac (and similar equipment); Locomotives, All; Motor Patrol; Lubrication Technician; Manipulators; File Drivers and Skid Rig; Post Hole Digger; Pre-Stress Machine; Pump Cretes Dual Ram; Pump Cretes: Squeeze Cretes-Screw Type Pumps; Gypsum Bulker and Pump; Raised and Blind Hole Drill; Roto Mill Grinder; Scoops - Tractor Drawn; Slip-Form Paver; Straddle Buggies; Tournapull; Tractor with Boom and Side Boom; Trenching Machines.

Class 2. Boilers; Broom, All Power Propelled; Bulldozers; Concrete Mixer (Two Bag and Over); Conveyor, Portable; Forklift Trucks; Highlift Shovels or Front Endloaders under 2-1/4 yd.; Hoists, Automatic; Hoists, Inside Elevators; Hoists, Sewer Dragging Machine; Hoists, Tugger Single Drum; Rock Drill (Self-Propelled); Rock Drill (Truck Mounted); Rollers, All; Steam Generators; Tractors, All; Tractor Drawn Vibratory Roller; Winch Trucks with "A" Frame.

Class 3. Air Compressor; Combination Small Equipment Operator; Generators; Heaters, Mechanical; Hoists, Inside Elevators; Hydraulic Power Units (Pile Driving, Extracting, and Drilling); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Low Boys; Pumps, Well Points; Welding Machines (2 through 5); Winches, 4 Small Electric Drill Winches; Eobcats (up to and including 1/4 cu yd.) .

Class 4. Bobcats and/or other Skid Steer Loaders (other than bobcats up to and including 1/4 cu yd.); Oilers; and Brick Forklift.

Class 5. Assistant Craft Foreman.

Class 6. Gradall.

Class 7. Mechanics.

#### OPERATING ENGINEERS - HIGHWAY CONSTRUCTION

Class 1. Asphalt Plant; Asphalt Heater and Planer Combination; Asphalt Heater Scarfire; Asphalt Spreader; Autograder/GOMACO or other similar type machines: ABG Paver; Backhoes with Caisson Attachment; Ballast Regulator; Belt Loader; Caisson Rigs; Car Dumper; Central Redi-Mix Plant; Combination Backhoe Front Endloader Machine, (1 cu. yd. Backhoe Bucket or over or with attachments); Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Tower Cranes of all types: Creter Crane: Crusher, Stone, etc.; Derricks, All; Derrick Boats; Derricks, Traveling; Dowell Machine with Air Compressor; Dredges; Formless Curb and Gutter Machine; Grader, Elevating; Grader, Motor Grader, Motor Patrol, Auto Patrol, Form Grader, Pull Grader, Subgrader; Guard Rail Post Driver Truck Mounted; Hoists, One, Two and Three Drum; Hydraulic Backhoes; Backhoes with shear attachments; Lubrication Technician; Manipulators; Mucking Machine; Pile Drivers and Skid Rig; Pre-Stress Machine; Pump Cretes Dual Ram; Rock Drill - Crawler or Skid Rig; Rock Drill - Truck Mounted; Rock/Track Tamper; Roto Mill Grinder; Slip-Form Paver; Soil Test Drill Rig (Truck Mounted); Straddle Euggies; Hydraulic Telescoping Form (Tunnel); Tractor Drawn Belt Loader (with attached pusher - two engineers); Tractor with Boom; Tractaire with Attachments; Trenching Machine; Truck Mounted Concrete Pump with Boom; Raised or Blind Hole Drills (Tunnel Shaft); Underground Boring and/or Mining Machines 5 ft. in diameter and over tunnel, etc; Underground Boring and/or Mining Machines under 5 ft. in diameter; Wheel Excavator; Widener (APSCO).

Class 2. Batch Plant; Bituminous Mixer; Boiler and Throttle Valve; Bulldozers; Car Loader Trailing Conveyors; Combination Backhoe Front Endloader Machine (Less than 1 cu. yd. Backhoe Bucket or over or with attachments); Compressor and Throttle Valve; Compressor, Common Receiver (3); Concrete Breaker or Hydro Hammer; Concrete Grinding Machine; Concrete Mixer or Paver 7S Series to and including 27 cu. ft.; Concrete Spreader; Concrete Curing Machine, Burlap Machine, Belting Machine and Sealing Machine; Concrete Wheel Saw; Conveyor Muck Cars (Haglund or Similar Type); Drills, All; Finishing Machine - Concrete; Highlift Shovels or Front Endloader; Hoist - Sewer Dragging Machine; Hydraulic Boom Trucks (All Attachments); Hydro-Blasters; All Locomotives, Dinky; Off-Road Hauling Units (including articulating)/2 ton capacity or more; Non Self-Loading Ejection Dump; Pump Cretes: Squeeze Cretes - Screw Type Pumps, Gypsum Bulker and Pump; Roller, Asphalt; Rotary Snow Flows; Rototiller, Seaman, etc., self-propelled; Scoops - Tractor Drawn; Self-Propelled Compactor; Spreader - Chip - Stone, etc.; Scraper; Scraper - Prime Mover in Tandem (Regardless of Size); Tank Car Heater; Tractors, Push, Pulling Sheeps Foot, Disc, Compactor, etc.; Tug Boats.

Class 3. Boilers; Brooms, All Power Propelled; Cement Supply Tender; Compressor, Common Receiver (2); Concrete Mixer (Two Bag and Over); Conveyor, Portable; Farm-Type Tractors Used for Mowing, Seeding, etc.; Fireman on Boilers; Forklift Trucks; Grouting Machine; Hoists, Automatic; Hoists, All Elevators; Hoists, Tugger Single Drum; Jeep Diggers; Low Boys; Pipe Jacking Machines; Post-Hole Digger; Power Saw,

Concrete Power Driven; Pug Mills; Rollers, other than Asphalt; Seed and Straw Blower; Steam Generators; Stump Machine; Winch Trucks with "A" Frame; Work Boats; Tamper-Form-Motor Driven.

Class 4. Air Compressor; Combination - Small Equipment Operator; Directional Boring Machine; Generators; Heaters, Mechanical; Hydraulic Power Unit (Pile Driving, Extracting, or Drilling); Hydro- Blaster; Light Plants, All (1 through 5); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, Well Points; Tractaire; Welding Machines (2 through 5); Winches, 4 Small Electric Drill Winches.

Class 5. Bobcats (all); Brick Forklifts; Oilers.

Class 6. Field Mechanics and Field Welders

Class 7. Gradall and machines of like nature.

#### OPERATING ENGINEER - FLOATING

Class 1. Craft Foreman; Diver/Wet Tender; and Engineer (hydraulic dredge).

Class 2. Crane/Backhoe Operator; 70 Ton or over Tug Operator; Mechanic/Welder; Assistant Engineer (Hydraulic Dredge); Leverman (Hydraulic Dredge); Diver Tender; Friction and Lattice Boom Cranes.

Class 3. Deck Equipment Operator, Machineryman; Maintenance of Crane (over 50 ton capacity); Tug/Launch Operator; Loader/Dozer and like equipment on Barge; and Deck Machinery, etc.

Class 4. Deck Equipment Operator, Machineryman/Fireman (4 Equipment Units or More); Off Road Trucks (2 ton capacity or more); Deck Hand, Tug Engineer, Crane Maintenance 50 Ton Capacity and Under or Backhoe Weighing 115,000 pounds or less; and Assistant Tug Operator.

#### TERRAZZO FINISHER

The handling of sand, cement, marble chips, and all other materials that may be used by the Mosaic Terrazzo Mechanic, and the mixing, grinding, grouting, cleaning and sealing of all Marble, Mosaic, and Terrazzo work, floors, base, stairs, and wainscoting by hand or machine, and in addition, assisting and aiding Marble, Masonic, and Terrazzo Mechanics.

#### TRAFFIC SAFETY

Work associated with barricades, horses and drums used to reduce lane usage on highway work, the installation and removal of temporary lane markings, and the installation and removal of temporary road signs.

#### TRUCK DRIVER - BUILDING, HEAVY AND HIGHWAY CONSTRUCTION - EAST & WEST

Class 1. Two or three Axle Trucks. A-frame Truck when used for transportation purposes; Air Compressors and Welding Machines, including those pulled by cars, pick-up trucks and tractors; Ambulances; Batch Gate Lockers; Batch Hopperman; Car and Truck Washers; Carry-alls; Fork Lifts and Hoisters; Helpers; Mechanics Helpers and Greasers; Oil Distributors 2-man operation; Pavement Breakers; Pole Trailer, up to 40 feet; Power Mower Tractors; Self-propelled Chip Spreader; Skipman; Slurry Trucks, 2-man operation; Slurry Truck Conveyor Operation, 2 or 3 man; Teamsters; Unskilled Dumpman; and Truck Drivers hauling warning lights, barricades, and

portable toilets on the job site.

Class 2. Four axle trucks; Dump Crets and Adgetors under 7 yards; Dumpsters, Track Trucks, Euclids, Hug Bottom Dump Turnapulls or Turnatrailers when pulling other than self-loading equipment or similar equipment under 16 cubic yards; Mixer Trucks under 7 yards; Ready-mix Plant Hopper Operator, and Winch Trucks, 2 Axles.

Class 3. Five axle trucks; Dump Crets and Adgetors 7 yards and over; Dumpsters, Track Trucks, Euclids, Hug Bottom Dump Turnatrailers or turnapulls when pulling other than self-loading equipment or similar equipment over 16 cubic yards; Explosives and/or Fission Material Trucks; Mixer Trucks 7 yards or over; Mobile Cranes while in transit; Oil Distributors, 1-man operation; Pole Trailer, over 40 feet; Pole and Expandable Trailers hauling material over 50 feet long; Slurry trucks, 1-man operation; Winch trucks, 3 axles or more; Mechanic--Truck Welder and Truck Painter.

Class 4. Six axle trucks; Dual-purpose vehicles, such as mounted crane trucks with hoist and accessories; Foreman; Master Mechanic; Self-loading equipment like P.B. and trucks with scoops on the front.

#### Other Classifications of Work:

For definitions of classifications not otherwise set out, the Department generally has on file such definitions which are available. If a task to be performed is not subject to one of the classifications of pay set out, the Department will upon being contacted state which neighboring county has such a classification and provide such rate, such rate being deemed to exist by reference in this document. If no neighboring county rate applies to the task, the Department shall undertake a special determination, such special determination being then deemed to have existed under this determination. If a project requires these, or any classification not listed, please contact IDOL at 217-782-1710 for wage rates or clarifications.

#### LANDSCAPING

Landscaping work falls under the existing classifications for laborer, operating engineer and truck driver. The work performed by landscape plantsman and landscape laborer is covered by the existing classification of laborer. The work performed by landscape operators (regardless of equipment used or its size) is covered by the classifications of operating engineer. The work performed by landscape truck drivers (regardless of size of truck driven) is covered by the classifications of truck driver.

# Village Board Agenda Memo

Date: June 6, 2012

To: Village President and Board of Trustees

From: Julia Cedillo, Village Manager 

RE: **Electrical Power Aggregation – Bid Acceptance for Electricity Supply**

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## **GENERAL BACKGROUND**

Pursuant to the Illinois Power Agency Act, 20 ILCS 3855/1-92, municipal governments are authorized to aggregate the electric loads of small commercial and retail customers located within their corporate boundaries, to then solicit bids, select a retail electric supplier, and enter into a service agreement to facilitate the purchase of electricity on behalf of its residents and small businesses. The statute is a part of the state's electric deregulation efforts which allow customers access to competitive retail electric markets.

In accordance with that law, on December 13, 2011, the Village of La Grange Park Board of Trustees passed an Ordinance authorizing a referendum on the March 20, 2012 ballot which asked the public for authority to create an opt out aggregation program for its residents and small business customers. La Grange Park voters approved the Referendum with 68.62% of La Grange Park voters voting "yes."

As required per state legislation, the Village held two (2) Public Hearings in May on Electrical Aggregation and a proposed Plan of Operation and Governance. At the May 22, 2012 Village Board Meeting, the Board approved an Ordinance authorizing the aggregation of the electrical load and adoption of an Electrical Power Aggregation Plan of Operation and Governance.

The next step in the aggregation process is the solicitation of bids for the Board's consideration and approval on June 12, 2012, the day of the Work Session Meeting. This condensed timeline is necessary because third party provider bids for electrical supply (a commodity) are only applicable for a 24 hour period. In anticipation of this process, on May 22<sup>nd</sup>, the Village Board discussed a number of program components to consider as part of the aggregate supply. Those program components are outlined below.

<b>Program Component</b>	<b>General Direction</b>
<b>Term</b>	24 months.
<b>Renewable Options</b>	For further discussion and consideration.
<b>Early Termination Fee</b>	Not preferred.
<b>Civic Contribution</b>	Yes, at a rate of \$0.001 per kWh.
<b>Price Guarantee Clause</b>	Yes.

Sharon Durling of NIMEC will be present at the Work Session meeting to present the Village Board with the electrical aggregation bid results and other information received as part of the June 12, 2012 bid proposal process. She will assist the Village Board with any questions and concerns through the decision-making / supplier selection process.

### **ACTION / MOTION**

*This is an Action item for this evening's Village Board Work Session.*

**Motion to approve a Resolution Authorizing Execution of Power Supply Agreement Between the Village of La Grange Park and \_\_\_\_\_ to Provide Full-Requirements Electricity Supply and Related Services For the Village's Electrical Aggregation Program.**

### **RECOMMENDATION**

It is the staff's recommendation to authorize execution of a power supply agreement.

### **DOCUMENTATION**

- Resolution Authorizing Execution of Power Supply Agreement Between the Village of La Grange Park and \_\_\_\_\_ to Provide Full-Requirements Electricity Supply and Related Services for the Village's Electric Aggregation Program.
- Draft Power Supply Agreement
- Electrical Power Aggregation Memo, dated May 16, 2012
- Bid Packet Results – To be distributed at the June 12, 2012 Work Session
- Comparison of Community Choices Document, NIMEC – To be distributed at the June 12, 2012 Work Session

**RESOLUTION NO. 12-13**

**RESOLUTION AUTHORIZING EXECUTION OF POWER  
SUPPLY AGREEMENT BETWEEN THE VILLAGE OF LA  
GRANGE PARK AND \_\_\_\_\_  
TO PROVIDE FULL-REQUIREMENTS ELECTRICITY SUPPLY  
AND RELATED SERVICES FOR THE VILLAGE'S ELECTRIC  
AGGREGATION PROGRAM**

WHEREAS, the Illinois Power Agency Act was amended to add Section 1-92 entitles Aggregation of Electrical Load by Municipalities and Counties, codified as 20 ILCS 3855/1-92 (hereinafter referred to as the "Act"); and

WHEREAS, the Village may operate an electric power aggregation program as an opt out program for residential and small commercial retail customers, if a referendum is passed by a majority vote of the residents pursuant to the requirements of the ACT; and

WHEREAS, the Village submitted the question in a referendum on March 20, 2012, and a majority of the electors voting on the question voted in the affirmative; and

WHEREAS, the Village published notice of and held the required Public Hearings for the Electric Power Aggregation Plan of Operation and Governance on May 8, 2012 and May 14, 2012; and

WHEREAS, on May 22, 2012, the Village approved Ordinance No. 929, authorizing the aggregation of electrical load and adopted an Electrical Power Aggregation Plan of Operation and Governance; and

WHEREAS, on June 12, 2012, the Village's consultant, Northern Illinois Electrical Collaborative (NIMEC), solicited bid proposals on the Village's behalf from qualified suppliers capable of providing electricity to meet the needs of residential and small commercial retail customers within the Village who do not opt out of the Aggregation Program; and

WHEREAS, on June 12, 2012, the Village has received a proposal from \_\_\_\_\_ to provide electricity supply;

WHEREAS, a draft Power Supply Agreement between the Village and \_\_\_\_\_ has been prepared and is attached hereto; and

NOW, THEREFORE BE IT HEREBY RESOLVED, by the President and Board of Trustees of the Village of La Grange Park, Cook County, Illinois, as follows:

1. After approval by the Village Attorney, the Village President is hereby authorized to execute a Power Supply Agreement with \_\_\_\_\_

2. The Village Manager is authorized and directed to take such further actions as deemed necessary and appropriate to implement, administer and enforce this Resolution.

ADOPTED BY THE PRESIDENT AND THE BOARD OF TRUSTEES of the Village of La Grange Park, Cook County, Illinois this 12<sup>th</sup> day of June 2012.

YES:

NO:

ABSENT:

Approved this 12<sup>th</sup> day of June 2012.

\_\_\_\_\_  
Dr. James L. Discipio, Village President

ATTEST: \_\_\_\_\_  
Amanda Seidel, Village Clerk

APPROVED AS TO FORM: 6/7/2012  
Village Attorney

## **POWER SUPPLY AGREEMENT (DRAFT)**

### **AGREEMENT BY AND BETWEEN THE VILLAGE OF LA GRANGE PARK AND [REDACTED] TO PROVIDE FULL-REQUIREMENTS ELECTRICITY SUPPLY AND RELATED SERVICES FOR THE VILAGE'S ELECTRIC AGGREGATION PROGRAM**

This Agreement ("Agreement"), is entered into as of this \_\_\_\_ day of June, 2012 ("Effective Date") between the Village of La Grange Park, an Illinois municipal corporation ("Municipality") and [REDACTED] ("Supplier") (each a "Party" and collectively, the "Parties").

#### RECITALS

A. The Municipality has established an Electricity Aggregation Program ("Program") pursuant to the Aggregation Ordinance and the Aggregation Statute, and will conduct the Program as an opt-out program pursuant to the Aggregation Ordinance and the Aggregation Statute.

B. In order to identify qualified suppliers of electricity for the Program, the Northern Illinois Municipal Electric Collaborative ("NIMEC") conducted a Request for Qualifications and Joint Power Supply Bid process.

C. The purpose of this Agreement is for the Supplier to provide the Full-Requirements Electricity Supply Services and the Program Implementation Services as defined herein (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 established in this Agreement.

D. The Supplier acknowledges and agrees that it has all certifications, authorizations, qualifications, and approvals necessary pursuant to the Requirements of Law to sell Full-Requirements Electricity Supply to Eligible Customers pursuant to this Agreement, including without limitation that:

a. 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 distribution systems 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. Supplier has at least three years continuous experience as a Retail Electric Supplier and has provided Full-Requirements Electricity Supply to at least 25,000 residential or commercial customers.

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

e. The Municipality desires to enter into this Agreement with Supplier for the provision by the Supplier of Full-Requirements Electricity Supply to all Eligible Customers pursuant to the Program.

## AGREEMENT

In consideration of the mutual covenants and agreements contained herein, the Municipality and the Supplier agree as follows:

### ARTICLE 1 RECITALS

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

### ARTICLE 2 DEFINITIONS

The following terms shall have the meanings ascribed to them in this section:

2.1. "Aggregate" means the total number of Eligible Customers that are within the jurisdictional boundaries of the Municipality.

2.2. "Aggregation Ordinance" means that certain ordinance adopted by the Municipality authorizing the Program.

2.3. "Aggregation Statute" means Section 1-92 of the Illinois Power Agency Act, 20 ILCS 3855/1-92 and applicable rules and regulations of the Illinois Commerce Commission.

2.4. "Bid Package" means the bid documents provided to the pre-qualified bidders pursuant to the Power Supply Bid and attached to this Agreement as Exhibit A.

2.5. "Bid Response" means the response submitted by the Supplier to the Bid Package, which is attached to this Agreement as Exhibit B.

2.6. "Billing Services" means those services described in Section 4.4 of this Agreement, including all subsections of Section 4.4.

2.7. "ComEd" means Commonwealth Edison.

2.8. "Compliance Services" means those services identified in Section 4.5 of this Agreement, including all subsections of Section 4.5.

2.9. "Confidential Information" means the information defined in Section 9 of this Agreement.

2.10. "Customer Information" means that certain information that the Electric Utility is required to provide to the corporate authorities of the Municipality pursuant to the Aggregation Statute, including without limitation those names and addresses and Electric Utility account numbers 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.

2.11. "Data" means the data defined in Section 9 of this Agreement.

2.12. "Electric Utility" means ComEd.

2.13. "Eligible Customers" means residential and small commercial electricity customers receiving Full-Requirements Electricity Supply within the Municipality who are eligible to participate in the Program pursuant to the Aggregation Statute and the Requirements of Law.

2.14. "Energy" means generated electricity.

2.15. "Enrollment Services" means those services described in Section 4.3 of this Agreement, including all subsections of Section 4.3.

2.16. "Extended Term" means the term defined in Section 5.1 of this Agreement.

2.17. "Force Majeure Event" means the circumstances defined in Section 7.1 of this Agreement.

2.18. "Full-Requirements Electricity Supply" means all services or charges necessary to provide the continuous supply of electricity to all Participating Customers, including, without limitation, Energy, capacity, losses, renewable portfolio standard (RPS) charges, imbalances, load factor adjustments, transmission costs, congestion charges, marginal losses, ancillary services, taxes applicable only to the Supplier, and any additional necessary services or charges.

2.19. "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.

2.20. "ICC" means the Illinois Commerce Commission

2.21. "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.

2.22. "Joint Power Supply Bid" means the bidding process conducted by NIMEC on behalf of the Municipality to identify the Supplier.

2.23. "New Customers" means the customers defined in Section 4.3.9 of this Agreement.

2.24. "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 Requirements of Law:

2.25. "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 Requirements of Law.

2.26. "Opt-Out Process" means the process defined in Section 4.2.1 of this Agreement.

2.27. "Participating Customers" means those Eligible Customers who do not opt out of the Program and are not Special Billing Customers, and New Customers.

2.28. "Plan of Governance" or "POG" means that certain Plan of Operation and Governance approved by the Municipality on May 22, 2012, pursuant to the Aggregation Statute.

2.29. "Point of Delivery" means the point specified by the Electric Utility at which the Supplier must deliver the Full-Requirements Electricity Supply to the Electric Utility for distribution to Participating Customers.

2.30. "Price" means the fixed price expressed in cents per kilowatt hour at which the Supplier will provide the Services as set forth in Exhibit C to this Agreement.

2.31. "Program" means the electricity aggregation program operated by the Municipality 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 Municipality for the purpose of soliciting and entering into service agreements to facilitate for those loads the sale and purchase of Full-Requirements Electricity Supply and related Services.

2.32. "Program Implementation Services" means those portions of the Services described in Section 4.2 of this Agreement, including all subsections of Section 4.2.

2.33. "Requirements of Law" means the Aggregation Ordinance, the Aggregation Statute, the Plan of Governance, the rules and regulations of the ICC and Illinois Power Agency (including the ICC Order in Case No. 11-0434 issued on April 4, 2012), 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, all as may be hereinafter duly amended.

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

2.35. "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.

2.36. "Special Billing Customers" means the customers defined in Section 4.3.8 of this



## 3.2 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 Municipality 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. Supplier shall comply with all Requirements of Law.

3.2.3 Supplier Press Releases. The Supplier may issue press releases concerning the Program that are approved in advance by the Municipality prior to issuance.

3.2.4 That all information provided by The Supplier to Municipality or any of its agents relating to this Agreement in any way shall be true and accurate in all respects at all times.

## ARTICLE 4 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. 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. 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. Supplier will cause to be transmitted and delivered to the Electric Utility at the Delivery Point sufficient Energy to provide continuous Full-Requirements Electricity Supply to all Participating Customers. The Municipality 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 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. Supplier acknowledges and agrees that if the Supplier fails to comply with any requirement related to the Full-Requirements Electricity Supply to the Participating Customers pursuant to this Agreement, including without limitation if Supplier fails to schedule all or part of the Full-Requirements Electricity Supply for any Participating Customer, 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 4.1.3 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 payments or compensation, except that the Supplier may impose an early termination fee on Withdrawing Customers pursuant to Section 4.3.5 of this Agreement. The Municipality acknowledges that the Price does not include sales or other consumer-based taxes applicable to Participating Customers or other taxes that are not applicable to the Supplier

4.1.3 Price Guarantee. If the rates for Tariffed Service to a particular rate class are set below the Price during the Term of this Agreement, Seller will either (a) provide the Services to Participating Customers in such class at a price equal to the rate for Tariffed Services, or (b) after taking all steps necessary to return all Participating Customers to the Electric Utility, terminate this Agreement without damages or early termination fees to either Party. Notwithstanding the foregoing, termination under this Section 4.1.3 may be avoided if the Municipality determines that the Aggregation Program should remain in place at the Price without the need to match. In such an event, the Parties shall enter into a written agreement and the Municipality shall not waive any rights set forth herein by allowing the Price to remain in place without the need to match unless the Municipality specifically agrees in writing.

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. Supplier, at its sole cost and expense, shall, with the assistance of the Municipality, 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. Supplier, at its own expense, shall be fully responsible to prepare and mail form Opt-Out Notices to all Eligible Customers as required pursuant to the Requirements of Law. Opt-Out Notices must include all information required pursuant to the Requirements of Law, including without limitation including the terms and conditions of participation in the Program, the cost to the Customer of Full-Requirements Electricity Supply under the Program, the methods by which 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

Section 4.2.1.3. The form and content of the Opt-Out Notices must be approved by the Municipality prior to mailing by the Supplier. In addition to the Opt-Out Notices, the Supplier will provide Participating Customers with terms and conditions for the provision of Full Requirements Electric Supply to those Participating Customers, which terms and conditions shall comply with and accurately reflect all of the requirements of this Agreement and the Requirements of Law and shall be substantially similar to the form attached in Exhibit F.

4.2.1.2 Notices to Special Billing Customers. The Municipality acknowledges that the Municipality may provide notices to Special Billing Customers concerning the Program, the Price, the rates charged to Special Billing Customers under their existing service, and the opportunity for 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 Customers 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. Supplier will be required to support Spanish speaking residents and customers with disabilities.

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

4.2.2 Required Disclosures. 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.

4.3 Enrollment Services. The Supplier must supply the following Enrollment Services as 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 Customers 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 , 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 Municipality's implementation schedule which is attached as Exhibit E.

4.3.5 Payment of Switching Fees. The Supplier shall reimburse Participating Customers for any switching fee imposed by the Electric Utility related to the enrollment of a Participating Customer in the Program within 30 days of receiving notice of such switching fee. The Supplier shall not be responsible to pay any switching fees imposed on Participating Customers who switch service from an alternative retail electric supplier.

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 Customer desires to withdraw from the Program ("Withdrawing Customer"), the Supplier must, at the direction of the Participating Customer, drop the Participating Customer from the Supplier's Full-Requirements Electricity Supply on the next available meter read, which will result in restoring the Participating Customer to Tariffed Service. **The Supplier shall not assess an early termination fee to Withdrawing Customers.**

4.3.7 Customer Service Inquiries. After completion of the Opt-Out Period, 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. Supplier must promptly and courteously address customer service inquiries in a manner that meets or exceeds the ICC requirements for the operation of call centers.

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:

4.3.8.1. Any Eligible Customer to which the following ComEd delivery classes are applicable:

- Residential Single Family With Electric Space Heat Delivery Class
- Residential Multi Family With Electric Space Heat Delivery Class

4.3.8.2. 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:

- Rate BESH – Basic Electric Service Hourly Pricing
- Rate RDS – Retail Delivery Service; and

4.3.8.3. 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. (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 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:

- 4.3.9.1. Any Eligible Customer within the Municipality that moves to a new location within the Municipality;
- 4.3.9.2. Any Eligible Customer that moves into an existing location within the Municipality;
- 4.3.9.3 Any Eligible Customer that previously opted out of the Program during the Opt-Out Period; and
- 4.3.9.4 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 provided in this Section 4.4:

4.4.1 Billing Generally. Supplier shall confirm that billing to Eligible Customers 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. The Municipality 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

4.4.2 Customer Classes. Eligible Customers 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 Customers 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

4.4.2.1 Commercial Customer Class. The commercial customer class shall include those Participating Customers taking service from ComEd under the following rates:

- 15,000 kWh's or less Delivery Class

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

4.6 Following the completion of the Opt-Out Period, the Supplier shall be responsible to compile a complete list of all Participating Customers in the Program. Supplier will update this list as new customers are added and deleted. Supplier will make this list available to the Municipality at any time the Municipality requests the list. Additionally, within 120 days of the end of this agreement, Supplier will make the Program's load data by rate class available to the Municipality. Load data shall include:

- Historical Usage Data
- Capacity Peak Load Contribution (PLC) values and effective start and end dates.
- Network Service Peak Load Contribution (PLC) values and effective start and end dates.
- Meter Bill Group Number.
- Rate Code.

## ARTICLE 5 TERM

5.1 Term. This Agreement commences as of the Effective Date and is for a term of twenty-four (24) consecutive monthly billing periods starting from the initial meter read date designated by the Municipality in consultation with the Supplier in                      2012, and expires at the end of the last day of the 24<sup>th</sup> billing cycle for the Participating Customer(s) with the latest billing cycle (the "Term"). The Municipality and the Supplier may extend the Term for additional periods of time up to 3 years for each extension, by written agreement approved and executed by each Party (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 Municipality to the Supplier will continue beyond the Term or an approved Extended Term. Notwithstanding the provisions of this Section 5.1, if the rate for Tariffed Service falls below the Price during the Term, the Supplier may terminate this Agreement after returning Participating Customers to Tariffed Service as provided in Section 4.1.3 of this Agreement.

5.2 In the event this agreement is not renewed or terminated for any reason, including expiration according to its terms, the Municipality may choose another RES or Retail Electric Supplier and Supplier shall allow all Participating Customers to be switched to the selected RES, or all Participating Customers shall be switched by the Supplier to service with ComEd in accord with the standard switching rules and applicable notices or as otherwise required by any applicable law or regulation.

## ARTICLE 6 REMEDIES AND TERMINATION

6.1 Municipality's General Remedies. In addition to every other right or remedy provided to the Municipality under this Agreement, if the Supplier fails to comply with any of the provisions of this Agreement (for reason other than a Force Majeure Event pursuant to Section 7.1 of this Agreement or a Regulatory Event pursuant to Section 7.2 of this Agreement, then the Municipality may give notice to the Supplier specifying that failure. The Supplier will have 15 calendar days after the date of that notice to take all necessary steps to 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 reasonably be achieved within 15 calendar days but the Supplier promptly commences a cure and diligently pursues the cure to completion. If the Supplier fails to comply within that 15-day period, or the shorter period if an imminent threat, or if the Supplier fails to promptly commence a cure and diligently pursue the cure to completion, then the Municipality, subject to the limits of applicable federal or State of Illinois law, may take any one or more of the following actions:

- 6.1.1 Seek specific performance of any provision of this Agreement or seek other equitable relief, and institute a lawsuit against the Supplier for those purposes.
- 6.1.2 Institute a lawsuit against the Supplier for breach of this Agreement and, except as provided in Section 6.3 of this Agreement, seek remedies and damages as the court may award.
- 6.1.3 In the case of noncompliance with a material provision of this Agreement, declare this Agreement to be terminated in accordance with the following:

6.1.3.1 The Municipality will give written notice to the Supplier of the Municipality's intent to terminate this Agreement ("Termination Notice"). The notice will set forth with specificity the nature of the noncompliance. The Supplier will have 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 Municipality has not received a response from the Supplier, or if the Municipality does not agree with the Supplier's response or any remedy proposed by the Supplier, then the Municipality will conduct a hearing on the proposed termination. The Municipality will serve notice of that hearing on the Supplier at least 10 business days prior to the hearing, specifying the time and place of the hearing and stating the Municipality's intent to terminate this Agreement.

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

6.1.3.3 The decision of the Municipality must be in writing and delivered to the Supplier by certified mail.

If the rights and privileges granted to the Supplier under this Agreement are terminated, then the Supplier, within 14 calendar days after the Municipality's demand, must reimburse the Municipality for all costs and expenses incurred by the Municipality, including, without

limitation, reasonable attorneys' fees, in connection with that termination of rights or with any other enforcement action undertaken by the Municipality.

6.2 Actions on Termination or Expiration of this Agreement. This Agreement shall terminate upon the expiration of the Term or an Extended Term, as applicable (with the understanding that the expiration of service for any particular Participating Customer will be tied to that customer's billing cycle), or the Municipality's termination of the Agreement pursuant to Section 6.1 or 4.1.2. Upon termination as a result of expiration of the Term (absent agreement upon an Extended Term), or upon termination as a result of expiration of an Extended Term, as applicable, Supplier shall return Participating Customers to Tariffed Service upon expiration of the Term or Extended Term, as applicable, on the first available meter read. In the event of the Municipality's termination of the Agreement prior to the end of the Term or Extended Term pursuant to Section 6.1.c, as applicable, Supplier shall return Participating Customers to Tariffed Service on the second available meter read in order to provide the opportunity for Participating Customers to identify alternate sources of electrical supply prior to returning to Tariffed Service. Participating Customers shall not be liable for any termination fee as a result of such termination or expiration in accordance with the preceding sentences of this Section 6.2. Supplier shall not be responsible to any Participating Customer for any damages or penalties resulting from the return to Tariffed Service, including claims relating to the Tariffed Service price being higher than the Price herein.

6.3 Limitation of Liability. Except for the Supplier's failure to provide Full-Requirements Electricity Supply to Participating Customers or the disclosure of Customer Information in violation of the Requirements of Law, or as otherwise specifically provided herein, in no event will either Party be liable to the other Party under this Agreement for incidental, indirect, special, or consequential damages connected with or resulting from performance or non-performance of this Agreement, irrespective of whether such claims are based upon breach of warranty, tort (including negligence of any degree), strict liability, contract, operation of law or otherwise.

## ARTICLE 7 FORCE MAJEURE EVENTS AND REGULATORY EVENTS

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 a strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, or other event that is reasonably beyond the Supplier's ability to anticipate or control. . Non-compliance or default attributable to a Force Majeure Event shall be corrected within a reasonable amount of time after the Force Majeure Event has ceased.

7.2 Regulatory Event. 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 or (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 Charges. Any material increase in generation, energy, or utility taxes or charges enacted and effective after the Effective Date of this Agreement. The imposition of such tax or charge after the Effective Date of this Agreement is not subject to automatic pass-through in Price, but would only constitute a Regulatory Event if the imposition of the charge materially and adversely affects Supplier's ability to perform.
- d. Occurrence of Regulatory Event. **Within ten (10) days of** the occurrence of a Regulatory Event, the adversely affected Party shall give notice to the other Party that such event has occurred. Within thirty (30) days, or such other period as the Parties may agree in writing, the Parties shall enter into good faith negotiations to amend or replace this Agreement so that the adversely affected Party is restored as nearly as possible to the economic position it would have been in but for the occurrence of the Regulatory Event. If the Parties are unable to agree upon an amendment to this Agreement, within thirty (30) days or such other period as the Parties may agree in writing, the adversely affected Party shall have the right, upon ten (10) days prior written notice, to terminate and close out its obligations under this Agreement.

## ARTICLE 8 INDEMNIFICATION AND INSURANCE

8.1 Indemnification. The Supplier shall indemnify and hold harmless the Municipality, its officers, employees, agents, and attorneys, from and against any third party injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising from the Supplier's provision of the Services, except to the extent caused by the sole negligence of the Municipality.. 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 Municipality shall give the Supplier timely written notice of its obligation to indemnify and defend the Municipality after the Municipality'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 Municipality. Nothing herein shall be construed to limit the Supplier's duty to indemnify the Municipality by reference to the limits of insurance coverage described in this Agreement.

8.2 Insurance. Contemporaneous with the Supplier's execution of this Agreement, the Supplier shall provide certificates of insurance, all with coverages and limits as set forth in Exhibit D to this Agreement. For good cause shown, the Municipality Manager, Municipality Administrator, or his or her 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 Municipality Manager, Municipality Administrator, or his or her designee may impose in the exercise of his sole discretion. Such certificates and policies shall be in a form acceptable to the Municipality and from companies with a 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 become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the Municipality. The Supplier shall, at all times during the term of this Agreement, maintain and keep in force, at the Supplier's expense, the insurance coverages provided above.

## ARTICLE 9 CONFIDENTIAL INFORMATION

9.1 Confidential and Proprietary Information. Notwithstanding anything to the contrary set forth herein, the Parties are not required to disclose information which they reasonably deem to be proprietary or confidential in nature. The Parties agree that any information disclosed by a Party and designated as proprietary and confidential shall only be disclosed to those officials, employees, representatives, and agents of the other Party that have a need to know in order to administer and enforce this Agreement. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to a Party's corporate structure and affiliates, marketing plans, financial information unrelated to the calculation of the Price or rates pursuant to the Requirements of Law, or other information that is reasonably determined by a Party to be competitively sensitive. A Party may make proprietary or confidential information available for inspection but not copying or removal by the other Party's representatives. Compliance by the Municipality with the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. ("Illinois FOIA"), including compliance with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois FOIA, or with a decision or order of a court with jurisdiction over the Municipality, shall not be a violation of this Section.

9.2 Ownership of Data and Documents. All data and information, regardless of its format, developed or obtained under this Agreement ("Data"), other than the Supplier's confidential information, will be and remain the sole property of the Municipality. The Supplier must promptly deliver all Data to the Municipality at the Municipality's request. The Supplier is responsible for the care and protection of the Data until that delivery. The Supplier may retain one copy of the Data for the Supplier's records subject to the Supplier's continued compliance with the provisions of this Agreement.

9.3 Limitations on Customer Information. Both Parties acknowledge and agree that the Customer Information is subject to, and must be maintained in compliance with, the limitations 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.

9.4 Limitations on Customer Information. Both Parties acknowledge and agree that the Customer Information is subject to, and must be maintained in compliance with, the limitations 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, Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS

505/2HH, the ICC Order in Case No. 11-0434 issued April 4, 2012, and the provisions of ComEd's Tariff Rate GAP. Municipality shall warrant to ComEd that customer-specific information provided to the Municipality in accordance with the provisions of ComEd's Tariff Rate GAP shall be treated as confidential. To protect the confidentiality of Customer Information:

9.4.1 Supplier access to Customer Information is limited those authorized representatives of Supplier, or any third party, who have a need to know the information for purposes of this Agreement.

9.4.2 Supplier warrants that it will not disclose, use, sell, or provide Customer Information to any person, firm or entity for any purpose outside of the aggregation program.

9.4.3 Supplier and Municipality acknowledge that Customer Information remains the property of the Municipality and that material breaches of confidentiality will prohibit Supplier from placing any new bids to the Municipality's subsequent Request(s) for Qualifications for a period of one year after termination of this Agreement.

9.4.4 Supplier warrants that it will delete and/or destroy the Customer Information described in Items 18 through 23 of the Company Obligations Section of ComEd's Tariff Rate GAP, and provided by Municipality, within 60 days after ComEd provides the information to Municipality. Municipality will offer its assistance to ensure that Supplier meets these requirements and deadlines.

9.5 Proprietary Rights, Survival. Each Party acknowledges the proprietary rights of the other Party in and to the Confidential Information. The obligations under this Article Nine shall survive the conclusion or termination of this Agreement for two (2) years.

## ARTICLE 10 MISCELLANEOUS

10.1 Notices. Any notices, requests or demands regarding the services provided under this Agreement and the Attachments shall be deemed to be properly given or made (i) if by hand delivery, on 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 the other Party.

To Municipality  
Village Clerk  
Village of La Grange Park  
447 N. Catherine Avenue  
La Grange Park, IL 60526

To Supplier

With a copy to:  
Village Manager  
Village of La Grange Park  
447 N. Catherine Avenue  
La Grange Park, IL 60526

With a copy to:  
\_\_\_\_\_

10.2 Mutual Representations and Warranties. Each Party represents and warrants to the other Party, as of the date of this Agreement, that:

- a. It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation, and if relevant under such laws, in good standing;
- b. It has the corporate, governmental and/or other legal capacity, authority and power to execute, deliver and enter into this Agreement and any other related documents, and perform its obligations under this Agreement, and has taken all necessary actions and made all necessary determinations and findings to authorize such execution, delivery and performance;
- c. The execution, delivery and performance of this Agreement does not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets; and
- d. It has reviewed and understands this Agreement; and
- e. It, to the extent applicable, shall comply with all the Requirements of Law.

10.3 Supplier agrees that all information presented in its Response to Qualifications for Municipal Aggregated Electricity Supply For Member Communities of the Northern Illinois Municipal Electric Collaborate, dated [April 23 2012 for First Energy only]\_\_\_\_\_, are accurate and there have been no material changes to that information. Any exceptions are noted on attached exhibit and made part of this agreement.

10.4 Entire Agreement. This Agreement and the response to qualifications referenced in 10.3, including all Attachments hereto, contains all of the terms and conditions of this Agreement reached by the Parties, and supersedes all prior oral or written agreements with respect to this Agreement. This Agreement may not be modified, amended, altered or supplemented, except by written agreement signed by both 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 in writing by the Party making the waiver.

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

10.6 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.

10.7 Applicable Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois without regard for the conflicts of law provisions thereof.

10.8 **Controlling Provisions.** In the event of any inconsistency between the terms herein and the terms of the Exhibits hereto, the provisions of the Agreement shall control.

10.9 **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.

10.10 **Venue.** Except as to any matter within the jurisdiction of the ICC, 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.

10.11 **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.

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

10.13 **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.

10.14 **Authority to Sign Agreement.** Each Party warrants to the other Party that it is authorized to execute, deliver and perform this Agreement. The individual signing this Agreement on behalf of each Party warrants to the other Party that he/she is authorized to execute this Agreement in the name of the Party for which he/she is signing.

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

10.16 **Non-Assignability.** This Agreement shall not be transferred or assigned by the Supplier without the express written authorization of the Municipality.

10.17 **Counterparts.** 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.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective on the date first written above.

Supplier: \_\_\_\_\_

Municipality: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_

Signed: \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_

**EXHIBIT A BID PACKAGE**

EXHIBIT B BID RESPONSE

EXHIBIT C:

PRICE

Residential Customer Class

Price                      per kWh\*

Commercial Customer Class

Price:                      per kWh\*

Termination Fee for Withdrawing Customers:

Residential: \$                      per utility account

Commercial: \$                      per utility account

Term:                      months

Renewable Energy Credits, if any

## EXHIBIT D

### INSURANCE COVERAGES

- A. Worker's Compensation and Employer's Liability with limits not less than:
- (1) Worker's Compensation: Statutory;
  - (2) Employer's Liability:
    - \$500,000 injury-per occurrence
    - \$500,000 disease-per employee
    - \$500,000 disease-policy limit
- Such insurance shall evidence that coverage applies in the State of Illinois.
- B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.
- All employees shall be included as insureds.
- C. Comprehensive General Liability
- a. with coverage written on an "occurrence" basis with limits no less than:
    - \$1,000,000 Bodily Injury and Property Damage Combined Single LimitCoverage is to be written on an "occurrence" bases.
  - Coverages shall include:
    - Broad Form Property Damage Endorsement
    - Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)
  - b. with coverage written on a "claims made" basis with limits no less than:
    - \$1,000,000 Bodily Injury and Property Damage Combined Single LimitCoverage is to be written on an "claims made" bases.
  - Coverages shall include:
    - Broad Form Property Damage Endorsement
    - Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)
- D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of the Contract.
- E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.
- F. Owner as Additional Insured. Owner shall be named as an Additional Insured on all policies except for:

Worker's Compensation

Professional Liability

Each such additional Insured endorsement shall identify Owner as follows: Village of , including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives.

- G. Other Parties as Additional Insureds. In addition to Owner, the following parties shall be named as additional insured on the following policies:

Additional Insured Policy or Policies

Exhibit F  
Electricity Purchase and Sale Terms and Conditions

The Village of La Grange Park (Municipality), pursuant to the aggregation authority conferred upon it by the Illinois Power Agency Act, 20 ILCS 3855/1-92, and Municipality Ordinance No. 949, adopted by the Municipality's corporate authorities on May 22, 2012 ("Aggregation Ordinance") establishing the Municipality's Electric Aggregation Program ("Program"), selected ("Seller") to supply electricity and to administer enrollments as described below pursuant to that certain Agreement between the Municipality and Seller dated \_\_\_\_\_, 2012 ("Program Agreement"). The account holder (also referred to as "Buyer") for each eligible account associated with the service address referenced on the letter accompanying these Electricity Purchase and Sale Terms and Conditions (the "Account"), and Seller agree to the following terms and conditions. Seller and Buyer (individually referred to as "Party" and collectively as "Parties") agree to the following Electricity Purchase and Sale Terms and Conditions ("Agreement"), as of \_\_\_\_\_, 2012 for Opt-Out Enrollments or the date of Buyer's enrollment with Seller for Opt-In Enrollments (the "Effective Date").

1. Eligibility. To be eligible to participate in the Program, the Account(s) to be served (i) must be located within the Municipality's jurisdictional boundaries, (ii) must be served by ComEd (the "Utility"), and (iii) may not have franchised service with a municipal account.

a. Residential Customer Class. To be eligible for the Residential Rate, the Account(s) to be served must be designated by the Utility as belonging to one of the following delivery classes: (i) Residential Single Family Without Electric Space Heat Delivery Class, (ii) Residential Multi Family Without Electric Space Heat Delivery Class, (iii) Residential Single Family With Electric Space Heat Delivery Class, or (iv) Residential Multi Family With Electric Space Heat Delivery Class. Notwithstanding the foregoing, if the Account(s) to be served are (i) on a residential space heat rate, (ii) on an hourly billing rate, or (iii) under contract with another retail electric supplier, the Account(s) are not eligible for Opt-Out Enrollment as defined in Section 2a below but are eligible for Opt-In Enrollment as defined in Section 2b below.

b. Commercial Customer Class. To be eligible for the Commercial Rate, the Account(s) to be served must be designated by the Utility as belonging to one of the following delivery classes: (i) Watt-Hour Delivery Class or (ii) Small Load Delivery Class. Notwithstanding the foregoing, if the Account(s) to be served are (i) on an hourly billing rate or (ii) under contract with another retail electric supplier, the Account(s) are not eligible for Opt-Out Enrollment as defined in Section 2a below but are eligible for Opt-In Enrollment as defined in Section 2b below.

2. Enrollment.

a. Opt-Out Enrollment (Automatic Enrollments due to non-action by \_\_\_\_\_, 2012). Enrollment is automatic if (i) the Account(s) to be served is/are eligible and (ii) Buyer does not opt-out of the Program. **IF BUYER DOES NOT WISH TO PARTICIPATE IN THE PROGRAM, THEY MUST OPT-OUT BY \_\_\_\_\_, 2012. THE BUYER CAN OPT-OUT**

**BY (I) RETURNING THE DESIGNATED POSTCARD, (II) CALLING SELLER TOLL-FREE AT (888) \_\_\_\_\_, OR (III) CONTACTING SELLER ONLINE AT WWW.\_\_\_\_\_.**

b. Opt-In Enrollment (Affirmative Enrollments). Enrollment is open to those who opt-out or are otherwise not automatically enrolled if (i) the Account(s) to be served is/are eligible and (ii) Buyer chooses to opt-in to the Program. A Buyer can Opt-In by (i) calling Seller toll-free at (888) \_\_\_\_\_ or (ii) contacting Seller online at [www.\\_\\_\\_\\_\\_](http://www._____).

3. Term. This Agreement shall become binding on the Effective Date and shall remain in effect through Buyer's \_\_\_\_\_ 2013 meter reading ("Term"), unless (i) this Agreement is terminated pursuant to its terms or (ii) the Program Agreement is terminated by the Municipality pursuant to its terms. Notwithstanding the Effective Date, the obligation of Seller to sell and schedule electricity for delivery to Buyer and the obligation of Buyer to purchase, take and pay for electricity shall commence on the Account's \_\_\_\_\_ 2012 meter read (for Opt-Out Enrollments) or the first available meter read following Opt-In for Opt-In Enrollments, and shall be contingent upon: (a) successful enrollment by the Utility identified and (b) if applicable, the passage of the Rescission Period (defined in Section 4) without effective cancellation by Buyer. Successful enrollment by the Utility is dependent upon (i) the eligibility of Buyer's Utility account(s), as determined by the Utility, to take from a retail electric supplier and to participate in the Utility's purchase of receivables program (including service class and past payment history), and (ii) the accuracy and completeness of any information submitted by Buyer.

4. Rescission Period. Buyer may cancel its enrollment without penalty.

5. Price.

a. Fixed Rate. During the Term, Buyer shall pay the Fixed Rate multiplied by the billing cycle usage the Account(s) served.

i. Residential Rate. During the Term, Buyers to which the Residential Customer Class is applicable shall pay the Fixed Rate of \_\_\_\_\_ cents per kWh.

ii. Commercial Rate. During the Term, Buyers to which the Commercial Customer Class is applicable shall pay the Fixed Rate of \_\_\_\_\_ cents per kWh.

b. Switching Fees. Seller does not charge Buyer a separate fee to switch to Seller's service. If ComEd charges a fee for enrolling the Account(s) to Seller's service, Seller will reimburse Buyer for any such fees within thirty (30) days. If Buyer is currently receiving electricity pursuant to an agreement with another retail electric supplier, that supplier may charge Buyer for switching electricity providers. Seller will not reimburse Buyer for any such fees.

c. Price Match. If the Utility's Price to Compare for the Account(s)' rate class are set below the Fixed Rate during the Term of this Agreement, Seller will either (a) lower the Fixed Rate identified above to match that of the Utility's applicable Price to Compare or (b) terminate this Agreement without damages or early termination fees to either Party. "Utility's Price to Compare" shall mean ComEd's "Price to Compare" for the applicable rate class, as posted on the

ICC website ([www.pluginillinois.org](http://www.pluginillinois.org)), which includes ComEd's electricity supply charge plus ComEd's transmission services charge, but shall not include ComEd's purchased electricity adjustment. Notwithstanding the foregoing, termination (in circumstances described in this paragraph) may be avoided if the Village determines that the Aggregation Program should remain in place at the Fixed Rate agreed to without the need to match. In such event, the parties shall enter into a written agreement and the Village shall not waive any rights set forth herein by allowing the fixed rate to remain in place without the need to match unless the Village specifically agrees in writing.

6. **Expiration.** Absent termination prior to the end of the Term as permitted herein, in the event the Program Agreement is not renewed by the Municipality prior to the end of the Term of this Agreement, Buyer will be restored to tariffed service at the end of the Term.

7. **Billing and Payment.** Buyer will be invoiced for Seller's charges and the Utility's delivery charges on monthly invoice(s) Buyer receives from the Utility, and such billing and payment shall be subject to the applicable Utility rules regarding billing and payment procedures. Seller's charges or credits not invoiced through the Utility shall be invoiced or credited, respectively, directly by Seller. Seller may cause the Utility to correct previous invoices in the event of invoicing errors.

8. **Taxes.** Any tax levied against Seller by any governmental entity, exclusive of Seller's income tax or taxes levied on Seller's real or personal property that must be paid by Seller shall be passed through to and borne and reimbursed by Buyer. Buyer must provide Seller with any applicable exemption certificates. Buyer shall pay any such taxes unless Seller is required by law to collect and remit such taxes, in which case Buyer shall reimburse Seller for all amounts so paid.

9. **Termination; Remedies.** If either Party defaults on its obligations under this Agreement (which may include Buyer's switching to another retail electric supplier or the Utility or Buyer's failure to pay the Utility), the other Party may terminate this Agreement, as applicable. Seller reserves the right to charge Buyer an early termination fee for Buyer's termination after the Rescission Period of Section 4 that has not resulted from Seller's default. Seller may invoice Buyer directly for any early termination fees and payment of any early termination fees shall be due within thirty (30) days of the invoice date. Buyer agrees damages would be difficult to quantify upon a default and agree that this is not a penalty. The early termination fee shall total \$0.00 per Account, provided however, Seller will waive such early termination fee if Buyer moves (either within or outside of the Municipality boundaries), and provides notice to Seller that Buyer is moving prior to termination. Notwithstanding the foregoing, in the event the Municipality terminates the Program Agreement prior to the end of the Term of this Agreement, Seller will waive the early termination fee and return Buyer's Account(s) to ComEd tariffed service on the second meter read following termination. **SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES OR PENALTIES RESULTING FROM THE RETURN OF BUYER'S ACCOUNT(S) TO THE UTILITY'S TARIFFED SERVICE, INCLUDING CLAIMS RELATING TO THE TARIFFED SERVICE PRICE BEING HIGHER THAN THE FIXED RATE HEREIN.**

**10. Limitations. ALL ELECTRICITY SOLD HEREUNDER IS PROVIDED "AS IS" AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT, WHETHER IN AGREEMENT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.**

11. Force Majeure. Except for Buyer's obligation to pay Seller timely, neither Party shall be liable to the other for failure to perform an obligation if the non-performing Party was prevented from performing due to an event beyond their reasonable control, that could not be remedied by the exercise of due diligence and that was not reasonably foreseeable, including without limitation, acts of God, a condition resulting from the curtailment of electricity supply or interruption or curtailment of transmission on the electric transmission and/or distribution system, interruption of Utility service, terrorist acts or wars, and force majeure events of the Utility or independent system operator.

12. Questions, Complaints, and Concerns. Buyer may contact Seller by calling 1-888-\_\_\_\_\_, at Seller's website at [www.\\_\\_\\_\\_\\_](http://www._____) or by writing to \_\_\_\_\_, Attn: Customer Service. For issues concerning this Agreement, Seller will attempt to resolve the matter within five (5) business days after receiving the call or letter. If Buyer is not satisfied with the response, or to obtain consumer education materials, Buyer can contact the Illinois Commerce Commission's Consumer Services Division at 1-800-524-0795 or 1-800-858-9277 for TTY hearing-impaired customers or visit the Illinois Commerce Commission's website at [www.icc.illinois.gov](http://www.icc.illinois.gov). Buyer may also contact the Illinois Attorney General's Office at 1-800-386-5438 (Northern Illinois), 1-800-243-0618 (Central Illinois), or 1-800-243-0607 (Southern Illinois).

13. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard for the conflicts of law provisions thereof. Title, possession, control of the electricity, and risk of loss will pass from Seller to Buyer at the delivery point, which shall be the Utility. Buyer appoints Seller as its agent for the purposes of effectuating delivery, including for receipt of billing and usage data from the Utility. Subject to regulatory approvals and notice from Seller and the terms of the Program Agreement, Seller may assign this Agreement without Buyer's consent. Buyer may assign this Agreement only with Seller's prior written consent. This Agreement (including without limitation the Account identification) shall be considered a Letter of Agency and constitutes the entire agreement between the Parties, superseding all verbal and written understandings. There are no third party beneficiaries to this Agreement and none are intended. This Agreement shall only be amended in writing signed by both Parties or with Notice from Seller to Buyer as described under Section 4 above. Buyer should contact the Utility in the event of an electric emergency at 1-800-Edison-1 (residential) or 1-877-4-ComEd-1 (commercial). Future correspondence may be sent by Seller to Buyer via first class mail and/or electronic mail.

# Village Board Agenda Memo

Date: May 16, 2012  
To: Village President and Board of Trustees  
From: Julia Cedillo, Village Manager   
RE: **Electrical Power Aggregation**

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## **GENERAL BACKGROUND**

Pursuant to the Illinois Power Agency Act, 20 ILCS 3855/1-92, municipal governments are authorized to aggregate the electric loads of small commercial and retail customers located within their corporate boundaries, to then solicit bids, select a retail electric supplier, and enter into a service agreement to facilitate the purchase of electricity on behalf of its residents and small businesses. The statute is a part of the state's electric deregulation efforts which allow customers access to competitive retail electric markets.

In accordance with that law, on December 13, 2011, the Village of La Grange Park Board of Trustees passed an Ordinance authorizing a referendum on the March 20, 2012 ballot which asked the public for authority to create an opt out aggregation program for its residents and small business customers. La Grange Park voters approved the Referendum with 68.62% of La Grange Park voters voting "yes."

The Power Agency Act requires that the Village draft a "Plan of Operation and Governance" which outlines the process for selecting an electrical supplier. A proposed plan was drafted with the assistance of Northern Illinois Municipal Electric Collaborative (NIMEC) and has undergone legal review with our Village Attorney. Per state legislation, the Village is required to hold two (2) Public Hearings on the proposed Plan. The Village posted the required public notice and held the hearings on May 8<sup>th</sup> and May 14<sup>th</sup> of 2012 at 6:00 p.m. at Village Hall. At the Public Hearings, several residents as well as Village Board members presented questions about the aggregation process to the Village's consulting group NIMEC, and to Village Staff. The meeting's dialogue was transcribed verbatim by the court reporter as a matter of public record.

The Plan of Operation and Governance describes the Village's process and rules for the upcoming aggregation bid and subsequent switch to a third party electrical supplier. The Plan includes the following:

- As was approved via referendum, the Village will establish an opt out program. This means that all eligible residents and small business owners will be part of the Village's aggregation, unless they choose to opt out;
- Prior to switching to a third party electrical provider, information will be provided to all eligible parties on how to opt out of the Village's program;

- Any provider wishing to bid on the Village’s aggregation must be classified and licensed to do business as a retail electrical supplier by the State of Illinois; and
- The Village of La Grange Park will only switch to a third party electrical provider if the provider is able to offer an electrical rate lower than what is currently being paid by residents and small business owners.

Before the Village can engage further in the aggregation process and go out to bid for the electrical load, the Village must approve an Ordinance authorizing the aggregation of the electrical load and adopt the proposed Plan of Operation and Governance.

**ACTION / MOTION**

*This is an Action item for this evening’s Village Board Meeting.*

**Motion to Approve an Ordinance Authorizing Aggregation of Electrical Load and Adopting an Electric Power Aggregation Plan of Operation and Governance.**

**RECOMMENDATION**

Staff recommends that the Village Board approve the Ordinance. The solicitation /acceptance of bids in other communities have yielded significantly lower power supply rates than what is currently provided by ComEd.

**PROGRAM CONSIDERATIONS**

As was discussed at the recently held Public Hearings, the Village will solicit bids for the Board’s consideration and approval on June 12, 2012, the day of the June Work Session Meeting. This is because third party provider bids for electrical supply are only applicable for a 24 hour period. In anticipation of this process, staff has prepared an informational packet for the Village Board to review. The information packet includes the RFP for electrical supply, bid sheets to be completed by each of the suppliers and a draft Master Power Supply Agreement prepared by NIMEC. The Village Attorney has completed a preliminary review of this draft Agreement.

Prior to the June Work Session where the Village Board approves the winning bid / alternate supplier, it would be advantageous for the Village Board to discuss desired program components to consider as part of the aggregate supply. Those program components are outlined below to guide the discussion.

Program Component	Choices / Background (Information Provided by NIMEC)
Term	Choices: 12, 24, or 36 months. One year is always the lowest rate offered. Longer terms always carry a higher rate (think of how mortgage rates ladder out, or the lower rates of Treasury bills vs. higher rates paid on Treasury bonds); two years is incrementally higher (several tenths of a cent), and in some cases, there is a bit of a jump to three year rates (perhaps a half cent or more—these are

	<p>guidelines, and could change, should bidders, for some new reason, perhaps based on new news or impacts to the marketplace, anticipate a jump in electricity that they simply aren't anticipating today. The majority of communities NIMEC has worked with have contracted for 24-month terms. Exceptions: 1-yr (Gurnee) and 3-yr term (Hinsdale). The process is half-way through, and this could change.</p> <p>Communities are basing their term choices on:</p> <ul style="list-style-type: none"> <li>• Multi-year lows, being a good time to extend a bit beyond a year to "lock in" rates at these lower levels</li> <li>• Not wanting to go to bid again in a year, in which case resident "fatigue" of the program could kick in, as all residents will receive an opt out letter again—each time a new contract is enacted</li> <li>• The thinking that the current rate of 8.5 c/kWh would likely not fall below current two-year price levels, yet guarding against possibility of an upward correction in electric prices</li> <li>• The fact that they may receive a guarantee to meet and match the "ComEd" rate, should that drop below contracted rate.</li> </ul>
<p><b>Renewable Options</b></p>	<p>Choices: NIMEC will ask bidders to offer prices for renewable energy sources (in the form of RECs) in increments of 0% (includes the minimum 7% required by law), 25%, 50% and 100%. The cost is roughly \$0.0001 (or 1/100th of a cent) for each additional 10 percent of REC coverage. Which means, one-tenth of a cent for 100% RECs. To date, costs have come in slightly under these estimates.</p> <p>To date, 15% of NIMEC communities have purchased RECs to represent 100% of their electric use – for all residents, unilaterally. Beyond that: Orland Park – 25%, Elmhurst is recommending 50%, but they have not yet gone to pricing. Eight communities that make up the North Shore Consortium purchased RECs to represent 100% of their electric use-unilaterally. Communities that are not purchasing any additional (above that required by law) renewable resources are offering it to their residents as an individual choice. Residents receive opt out letters that include information about how to sign up individually for 100 % RECs.</p> <p>The cost of RECs has recently hovered slightly below \$0.001 per kWh. The average La Grange Park household consumed 9,600 kWh for the calendar year 2011. This would equate to an additional cost of \$9.60 per household per year.</p>
<p><b>Early Termination Fee</b></p>	<p>Choice: An early termination fee is optional or negotiable. If the Village wishes, NIMEC can solicit only bids that offer zero early termination fee. Or the Village may wish to view pricing to consider its effect on pricing.</p> <p>NIMEC has never contracted for a fee higher than \$25 for residents (and it is</p>

	<p>typically \$50 for only the very few small commercial accounts that will now be included in the program.)</p> <p>Including an Early Termination Fee may or may not impact the rates. It would remain to be seen how the pricing falls out.</p> <p>Staff inquired to NIMEC as to whether having a termination fee curbs customers that repeatedly move in and out of the program. Response: With the anticipated savings now over 40 percent, and in a few cases, above 50 percent, this isn't a concern, but may be for a three-year program, or in the event "ComEd" rates fall at the end of two-year terms (i.e., June – August of 2014, when ComEd rates are generally thought to fall even further.)</p>
<p><b>Civic Contribution</b></p>	<p>The typical rate of a civic contribution is \$0.001 per kWh; (NIMEC has noticed one supplier offers only \$0.0002, and the rate reflects only that differential). The Civic Contribution is likely to impact resident bills by \$9.60 annually (for La Grange Park residents, assuming identical usage to last year). NIMEC estimates that a Civic Contribution would yield the Village roughly \$40,000 annually (assuming 20 percent of residents will stay with their previously individually selected ARES, and assuming some will opt out of the program).</p> <p>The trend with other communities is such that very few are accepting this, contrary to last year's trend of 65%.</p>
<p><b>Price Guarantee Clause</b></p>	<p>A rate guarantee protects residents from paying a contracted rate higher than a "ComEd" rate that may have fallen beneath the Village's contracted rate. Most municipalities engaging in two-year contracts are requiring / accepting this provision, but not all, including a municipality that engaged in a three-year contract. It can affect pricing.</p> <p>The language is as follows:  <u>"Price Guarantee.</u> If the rates for Tariffed Service to a particular rate class are set below the Price during the Term of this Agreement, Seller will either (a) provide the Services to Participating Customers in such class at a price equal to the rate for Tariffed Services, or (b) after taking all steps necessary to return all Participating Customers to the Electric Utility, terminate this Agreement without damages or early termination fees to either Party. Notwithstanding the foregoing, termination under this Section 4.1.3 may be avoided if the Municipality determines that the Aggregation Program should remain in place at the Price without the need to match. In such an event, the Parties shall enter into a written agreement and the Municipality shall not waive any rights set forth herein by allowing the Price to remain in place without the need to match unless the Municipality specifically agrees in writing."</p> <p>NIMEC originally determined to work only with suppliers that were willing to</p>

	offer a rate guarantee. Some would not. Two have recently pulled back, and will no longer offer the guarantee. NIMEC is not certain why, but those that have pulled back on this offer also have zero opt out fees, and will point out that residents may freely leave the program and switch back to “ComEd” or another supplier at any time, for no cost. But customers will have to take action to do so—they will not receive the benefit of an “automatic” rate drop per the original provision
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### **ACTION / MOTION**

While it is not absolutely necessary that these Plan Components be decided upon prior to issuing the RFP for aggregated electricity supply, reaching consensus on each of the Program Components will assist in guiding the selection of the alternate supplier at the June Work Session. As such, staff is requesting Village Board consensus or approval of a Motion on some or all of the Program Components listed above.

### **RECOMMENDATION**

Staff recommends the following as it relates to the Program Components:

Term: A two (2) year term is recommended. A term of this length will be less cumbersome for residents than a one year term. The rates become less competitive in year three, as it is difficult to predict the market cost of electrical supply three years from now.

Renewable Options: It would be advantageous to include some level of renewable energy sources as part of the supply. Current bids are such that even with significant renewable options, the prices are very competitive as compared to the Com Ed rate.

Early Termination Fee: Staff recommends that the Village wait to view pricing to consider its effect on pricing. If there is little effect on pricing, then a fee-less termination is likely to be valued by residents who participate in this new electrical aggregation program.

Civic Contribution: It is unlikely that revenues collected as a result of the civic contribution will match the staff time invested in implementing / administering the program. However, a substantial portion of any contribution received could be set aside for funding green initiatives, such as community programs or energy efficient retrofits.

Price Guarantee Clause: Staff recommends that this language be included in an agreement with the alternate supplier.

### **DOCUMENTATION**

- Electrical Power Aggregation – Plan of Operation and Governance
- Ordinance Authorizing Aggregation of Electrical Load and Adopting an Electric Power Aggregation Plan of Operation and Governance
- Electrical Power Aggregation – *Informational Packet*
- Public Hearing Memorandum, dated May 8, 2012



# **Village of La Grange Park**

## **ELECTRIC POWER AGGREGATION PLAN OF OPERATION AND GOVERNANCE**

May 17, 2012

**VILLAGE OF LA GRANGE PARK  
ELECTRIC POWER AGGREGATION  
PLAN OF OPERATION AND GOVERNANCE**

**I. HISTORY AND PURPOSE OF MUNICIPAL AGGREGATION**

Public Act 96-1076 amended the Illinois Power Agency Act by adding Section 1-92, codified as 20 ILCS 3855/1-92 (the "Act"). This statute is a part of the state's electric deregulation efforts which allow customers access to competitive retail electric markets. As a result of this legislation, municipalities, such as the Village of La Grange Park, are authorized to aggregate the electric loads of small commercial and retail customers located within the Village on an opt-in or opt-out program. The Act further authorizes a municipality to then solicit bids, select a retail electric supplier, and enter into a service agreement to facilitate the purchase of electricity and retail services and equipment on behalf of its residents and small businesses.

Large industrial and commercial consumers with sophisticated electric operations use their size and expertise to obtain lower electric power rates. Individual residential and small commercial retail consumers are typically unable to obtain significant price reduction since they lack the same bargaining power, expertise, and economies of scale enjoyed by larger consumers. Municipal Aggregation, the combining of multiple electric loads, provides the benefits of retail electric competition for consumers with lower electric usage.

The Village of La Grange Park Aggregation Program combines the electric loads of residential and small commercial retail customers to form a buying group ("Aggregation Group"). The Village will act as a purchasing agent for the Aggregation Group. Therefore, the Village of La Grange Park will be a Governmental Aggregator, as described by Illinois law and the rules established by authorized agencies, and shall act on behalf of Commonwealth Edison Company, an affiliate of Exelon Corporation (herein referred to as "ComEd" or "Commonwealth Edison") in the Village to obtain the best Aggregation Program for the members of the Aggregation Group.

**II. PROCESS**

In accordance with the Act, on December 13, 2011, the Village of La Grange Park Board of Trustees passed a resolution authorizing a referendum on the March 20, 2012 ballot seeking authority to create an Opt-Out aggregation program for its residents and small business customers. On March 20, 2012, in accordance with the requirements of the Act, La Grange Park voters approved a referendum to operate an Aggregation Program as an "opt-out" program. Under the opt-out program, all Com Ed residential and small business retail customers in the Village are automatically included as participants unless they opt-out of the Program by providing written notice of their intention not to participate as part of the Aggregation Group. Following the approval of the referendum, the Village passed Ordinance No. 949 on May 22, 2012, authorizing the Village to aggregate electrical loads for residential and small commercial retail customers in the Village and implement an opt-out Aggregation Program.

In addition to passing the required ordinances, the Village will comply with any requirements of the Act or rules and regulations promulgated thereunder either for certification as a Governmental Aggregator. As required by the Act, the Corporate Authorities developed and approved this Aggregation Plan of Operation and Governance ("Plan"). Before adopting this Plan, the Corporate Authorities published a notice in *Suburban Life*, a newspaper of general circulation in the Village, of public hearings to be held on May 8, 2012 at 6:00 o'clock p.m. and on May 14, 2012 at 6:00 o'clock p.m. The public hearings were held by the Corporate Authorities at Village Hall and

provided the residents of the Village an opportunity to comment on the Aggregation Program and this Plan. The Corporate Authorities considered the concerns of the residents and information disclosed at the hearings in the development of this Plan.

The opt-out notice for the Aggregation Program shall be provided in advance to all eligible electric customers in the Village upon approval of this Plan according to the opt-out disclosure program. The opt-out notice and disclosures shall comply with the Act and all applicable rules and regulations and shall fully inform such customers in advance that they have the right to opt-out of the Aggregation Program. The opt-out notice shall disclose all required information including but not limited to the rates, terms and conditions of the Program and the specific method to opt-out of the Program.

By majority vote of the Corporate Authorities, the Village may either: select a Retail Electric Supplier ("RES" or "Provider") to provide the electric power for the La Grange Park Aggregation Program according to the terms of a written service agreement entered into by and between the Provider and the Village; or determine not to enter into a service agreement with any Provider and in such event the Aggregation Group shall continue to purchase electric power through Commonwealth Edison. If the Corporate Authorities enter into a service agreement with a Provider, Commonwealth Edison will continue to provide and service delivery of the electricity purchased from the Provider, including metering, repairs and emergency service. The Corporate Authorities have determined that each participant in the Aggregation Group shall receive a single monthly bill from Commonwealth Edison under applicable tariffs.

### **III. DEFINITIONS**

"Aggregation Group" shall refer in this Plan to all the residential and small commercial retail customers of Com Ed in the corporate limits of the Village that have not opted out of the Program and are permitted under the terms of the Act to participate in the Program.

"Aggregation Program" or "Program" shall refer in this Plan to the program developed and implemented by the Village of La Grange Park as a Governmental Aggregator to solicit bids and enter into service agreements to facilitate the sale and purchase of electricity and related services for its residences and small businesses.

"Governmental Aggregator" shall refer in this Plan to the Village acting as operator of an Aggregation Program under the legislative authority granted under the Act. A Governmental Aggregator is not a public utility or an alternative retail electric supplier.

"Member" shall refer in this Plan to a person or legal entity enrolled in the Village of La Grange Park Municipal Aggregation Program for competitive retail electric services and a member of the Aggregation Group.

"Retail Electric Supplier" ("RES" or "Provider") shall refer in this Plan to an entity which: has been certified by all required authorities of the State of Illinois to provide competitive retail electrical services; has been selected by the Village to be the entity responsible to provide retail electrical supply service for Members of the Aggregation Program; and has executed a Power Supply Agreement with the Village.

### **IV. OPERATIONAL PLAN**

#### **A. Aggregation Services**

1. **Provider:** The Village of La Grange Park will solicit bids for and select a Provider to perform and manage aggregation services for Members of the Aggregation Program. The Provider shall provide accurate and understandable pricing, terms and conditions of service. The Provider shall charge no switching fees and shall disclose the conditions under which a Member may opt out of the Aggregation Program without penalty.
2. **Database:** The Retail Electric Supplier shall create and maintain a secure database of all Members. The database will include the name, address, Commonwealth Edison account number, and Retail Electric Supplier's account number for each active Member, and other pertinent information such as rate code, rider code (if applicable), most recent 12 months of usage and demand, and meter reading cycle. The Provider shall provide the Village, upon request, an electronic file containing the Members' usage, charges for retail supply service and such other information reasonably requested by the Village. The database will be updated at least quarterly. The Provider will develop and a program to accommodate Members who (i) leave the Aggregation Group due to relocation or opting out; (ii) join the Aggregation Program; (iii) relocate anywhere within the corporate limits of the Village; or (iv) move into the Village and join the Aggregation Group. Any Member who has opted out of the Aggregation Program shall be removed from the database. The Provider will use this database to perform audits for clerical and mathematical accuracy of Member electric supply bills. The Provider will make the database available to the Village at any time the Village requests it.
3. **Member Education:** The Provider shall develop and implement an educational program that: explains the Aggregation Program to all residential and small commercial retail customers in the Village and the Aggregation Group; provides updates and disclosures mandated by Illinois law and applicable rules and regulations; and implements a process to allow any Member the opportunity to opt out of the Aggregation Program. See Appendix A for further details.
4. **Customer Service:** Provider shall maintain an adequate customer service staff and develop and administer a written customer service process to accommodate Member inquiries and complaints about billing and answer questions regarding the Aggregation Program in general. This process will include a description of how telephone inquiries will be handled, either internally or externally, how invoices will be prepared, how Members may remit payment, and how delinquent accounts will be collected. The terms of the customer service plan shall be included in the Power Supply Agreement.
5. **Billing:** Commonwealth Edison will provide a monthly billing statement to each Member which shall include the charges of the Provider, and the Provider will not charge any additional administrative fee.
6. **Compliance Process:** The Provider shall develop internal controls and processes to ensure that the Village remains in good standing as a Governmental Aggregator and that the Village complies with the Act and all applicable laws, rules and regulations, as they may be amended from time to time. It will be the Provider's responsibility to timely deliver reports to the Village that will include (i) the number of Members participating in the Program; (ii) a savings estimate or increase from the previous year's baseline; (iii) such other information reasonably requested by the Village; (iv) comparison of the Members' charge for the supply of electricity from one designated period to another identified by the Village. The Provider shall also monitor and promptly notify the Village in writing of any changes or amendments to the Act or any laws, rules or regulations applicable to the Aggregation Program.

7. **Notification to Commonwealth Edison:** The residential and small commercial retail customers of Com Ed in the Village that do not opt out of the Aggregation Program will be enrolled automatically as Members in the Aggregation Program by the Provider, and such customers will not be asked to take affirmative steps to be included in the Aggregation Program. To the extent that Com Ed requires notification of participation, the Provider shall provide such notice to Com Ed. The Provider will inform Com Ed from time to time through electronic means the identities of any new members that it is enrolling into the Aggregation Group.
8. **Plan Requirements:** Pursuant to the Act, the Provider selected by the Village shall:
  - a. Provide for universal access to all applicable residential customers and equitable treatment of applicable residential customers;
  - b. Describe demand management and energy efficiency services to be provided to each class of customers;
  - c. Meet any requirements established by law concerning aggregated service offered pursuant to the Act.
9. **Solicitation of Bids:** Pursuant to the requirements of the Act, the process of soliciting bids for electricity and related services and awarding power supply agreements for the purchase of electricity and other related services by the Village, shall be conducted in the following manner:
  - a. The Corporate Authorities of the Village may solicit bids for electricity and other related services.
  - b. Notwithstanding Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, an electric utility that provides residential and small commercial retail electric service in the Village must, upon request of the Corporate Authorities of the Village, submit to the Village, in an electronic format, those names and addresses of residential and small commercial retail electrical retail customers in the Village that are reflected in the electrical utilities records at the time of the request and such other information required by the Act or any applicable rule or regulation of an authorized Illinois agency.
  - c. The Village, upon receiving customer information from an electric utility shall be subject to the limitations on the disclosure of that information described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Practices Act, and an electric utility providing such information shall not be held liable for any claims arising out of the provision of information pursuant to this Section and the Act.

**B. Power Supply Agreement**

Upon review of bids, the Corporate Authorities of the Village and the Provider shall execute and enter into a Power Supply Agreement.

**C. La Grange Park's Retail Electric Supplier**

The Provider shall satisfy each of the following requirements:

1. Have sufficient sources of power to provide retail firm power to the Aggregation Group.
2. Maintain a license as a Federal Power Marketer with the Federal Energy Regulatory Commission.
3. Maintain a certification from the State of Illinois as a certified retail electric supplier and any and all other licenses or certifications required by Illinois law.
4. Register as a retail electric supplier with Com Ed.
5. Maintain a Service Agreement for Network Integration Transmission Service under Open Access Transmission Tariff.
6. Maintain a Service Agreement under Illinois Market-based Rate Tariff.
7. Maintain the necessary corporate structure to sell retail firm electrical power to the Com Ed residential and small commercial retail customers in the Village and the Aggregation Group.
8. Maintain an Electronic Data Interchange computer network that is fully functional at all times and capable of handling the Com Ed residential and small commercial retail electric customers in the Village and the Aggregation Group.
9. Maintain the marketing ability to reach all Com Ed residential and small commercial retail customers in the Village to educate them on the terms of the Aggregation Program and the Act.
10. Maintain a call center capable of handling calls from Members of the Aggregation Group.
11. Maintain a local or toll-free telephone number for customer service and complaints related to the Village's Aggregation Program.
12. Agree in a binding written agreement between the Village and the Provider to hold the Village financially harmless and fully indemnifying the Village from any and all liability and financial obligations arising from the supplying of electrical power to the Aggregation Group.
13. Satisfy the credit requirements of the State of Illinois and the Village.
14. Have the binding authority (to the satisfaction of legal counsel for the Village) to execute the Power Supply Agreement with the Village and be fully bound by all of its terms and conditions.
15. Assist the Village in filing all reports required by the Act and any applicable law, rule or regulation, as may be amended from time to time.
16. Assist the Village in developing a Consumer Education Plan.

#### **D. Activation of Service**

Provider will mail a notice to all residential and small commercial retail electric customers in the Village providing an opportunity to opt out of the Program by a certain date ("Opt-Out Deadline"). After the Opt-Out Deadline, Provider will automatically enroll in the Aggregation Program all customers who do not opt out in writing by the Opt-Out Deadline, without further action by the customer, on terms set forth in the Power Supply Agreement.

#### **E. Changes, Extension or Renewal of Service**

The Power Supply Agreement will provide a date on which service shall begin and end. If the Power Supply Agreement is extended or renewed, Provider will notify Members of any change in rates or service conditions and other information required by law. The Power Supply Agreement shall describe the terms upon which a Member or non-member will have an opportunity to opt out of the Program, and reasonable notice will be provided as required by the Act or any applicable regulations. Members who opt out will also be notified of their right to select an alternate retail electric supplier and of their ability to return to Com Ed-provided supply service.

#### **F. Termination of Service**

In the event that any Power Supply Agreement is terminated for any reason prior to the end of the scheduled term, each Member of the Aggregation Group will receive prompt written notification of termination of the Program at least sixty (60) days prior to termination of service under the Agreement. If the Agreement is not extended or renewed, Members will be notified in a manner determined by the Village and any applicable law, prior to the end of any service. Members will also be notified of their right to select an alternate retail electric supplier and of their ability to return to Com Ed provided supply service upon termination of the Agreement.

#### **G. Enrollment in Aggregation Program; Notice to Customers**

Com Ed residential and small commercial retail customers in the Village will be automatically enrolled in the Aggregation Program, unless they timely call the Provider's 800 number or return a written form to the Provider by the Opt-Out Deadline notifying the Provider that they do not want to participate in the Aggregation Program. The Provider shall provide notice directly to Com Ed residential and small commercial retail customers, informing them of potential consequences of their change from existing service from Com Ed to the Aggregation Program. Com Ed residential and small commercial retail customers in the Village may request to join the Aggregation Group after the Opt-Out Deadline by contacting the Provider, who shall accept them into the Aggregation Program, subject to the terms and conditions of the Power Supply Agreement. The agreed upon policy shall be consistent with Com Ed's supplier enrollment requirements. Members of the Aggregation Group who move from one location to another within the corporate limits of the Village shall continue as a Member of the Aggregation Group.

#### **H. Opt-Out Procedures**

Com Ed residential and small commercial retail customers in the Village may initially opt out of the Aggregation Program at any time by written notice prior to the Opt-Out Deadline. Members of the Aggregation Group will be allowed to switch to a different electric supplier after the Opt-Out Deadline, on the terms set forth in the Power Supply Agreement but at least shall be allowed to opt-out every three years. The Provider may or may not charge an early termination fee. Requirements for notification of intent to opt out of the Aggregation Group shall be set forth in the Power Supply Agreement. It shall be the duty of the Provider to inform residential and small commercial retail customers in the Village in advance that they have the right to opt out of the Aggregation Program. Such disclosure shall prominently state any applicable charges, the cost to obtain service pursuant to Section 16-103 of the Public Utilities Act, how to access service, and the fact that service is available to them without penalty if they are currently receiving services under that section.

#### **I. Bidding**

The Village may elect to hold an individual bid process for the Aggregation Program or to participate in a group bid with other municipalities. The Village may, but is not required to, retain the services of a consultant, broker, or other expert in the field of electrical aggregation to assist in the preparation of the bidding documents and in managing the bidding process. The Village will retain the full and absolute right to accept, accept with conditions, or reject any bid. If this bidding process does not result in the identification of an acceptable bidder, the Village will conclude the bidding process and not proceed with the Aggregation Program. By majority vote of the Corporate Authorities, the Village may select a Retail Electric Supplier to provide electric power to the Program according to the terms of a written

Power Supply Agreement entered into by and between the Provider and the Village. By majority vote of the Corporate Authorities, the Village may determine not to enter into a power supply agreement with any Provider and in such event eligible customers shall continue to purchase electric power through Com Ed. If the Corporate Authorities enter into a power supply agreement with a Provider, Com Ed will continue to provide and service delivery of the electricity purchased from the Provider, and metering, repairs and emergency service will continue to be provided by Com Ed.

#### **V. MISCELLANEOUS GOVERNANCE GUIDELINES**

- A. The Corporate Authorities of the Village shall approve by an Ordinance passed by a majority vote of the Corporate Authorities this Plan of Operation and Governance for the Aggregation program and any Amendments thereto.
- B. The Corporate Authorities of the Village shall contract with a Provider certified by the Illinois Commerce Commission for the provision of Competitive Retail Electric Service to the Aggregation Group.
- C. The Corporate Authorities of the Village will require any Provider to disclose any subcontractors that it uses in fulfillment of the services described above or in the Power Supply Agreement.
- D. The Corporate Authorities of the Village will require the Provider to maintain either a toll-free telephone number, or a telephone number that is local to the Members.

#### **VI. LIABILITY**

THE VILLAGE SHALL NOT BE LIABLE TO PARTICIPANTS IN OR MEMBERS OF THE AGGREGATION GROUP FOR ANY CLAIMS, HOWEVER STYLED, ARISING OUT OF THE AGGREGATION PROGRAM OR THE PROVISION OF AGGREGATION SERVICES BY THE VILLAGE OR THE PROVIDER. PARTICIPANTS OR MEMBERS IN THE AGGREGATION GROUP SHALL ASSERT ANY SUCH CLAIMS SOLELY AGAINST THE PROVIDER PURSUANT TO THE POWER SUPPLY AGREEMENT, UNDER WHICH SUCH PARTICIPANTS ARE EXPRESS THIRD-PARTY BENEFICIARIES.

#### **VII. INFORMATION AND COMPLAINT NUMBERS**

Copies of this Plan shall be available from the Village of La Grange Park free of charge. Members and residential and small commercial retail customers of Com Ed may call the La Grange Park Village Hall at 708-354-0225 for a copy of the Plan or for more information.

## **Appendix A -- Education Process**

The Provider shall develop an educational program in conjunction with the Village. Its purpose will be to explain the Aggregation Program to its members, provide updates and disclosures as mandated by State law and the rules and regulations of any applicable Illinois agency, and provide the opportunity for the Members to opt out of the Aggregation Program. The following are components of the education program:

1. Each residential and small commercial retail customer of ComEd within the corporate limits of the Village will receive notification by U.S. Mail stating: what the Governmental Aggregation Program means, the procedure which must be followed to opt out of the Aggregation Program, the estimated price of electricity for Member of the Aggregation Program, and the deadline for returning the Opt-out form. See sample letter attached.
2. The Provider shall provide opportunities for educating residential and small commercial retail CE customers in the Village about the Program and their rights under the applicable laws and rules and regulations. In addition, the Provider will provide education about opportunities for energy efficiency measures to help Members reduce energy consumption.
3. The Provider will provide updates and disclosures to the Village and Members as mandated by State law and applicable rules and regulations as amended from time to time.

## SAMPLE LETTER

Dear Village of La Grange Park Resident,

The Village of La Grange Park is providing you the opportunity to join other residents to save money on the electricity you use. Savings are possible through governmental aggregation, where Village officials bring together citizens to gain group buying power for the purchase of electricity from a retail electric generation provider certified by the Public Illinois Utilities Commission. Village of La Grange Park voters approved this program in March 2012.

After researching competitive electricity pricing options for you, we have chosen \_\_\_\_\_, to provide you with savings on your electric generation through May 2012. There is no cost for enrollment and you will not be charged a switching fee. You do not need to do anything to participate. As a member of this aggregation, you are guaranteed to save \_\_\_ percent off your Price to Compare. Your Price to Compare is essentially the price you pay for electric generation from the utility and consists of generation and transmission related components, which are the costs associated with generating the power and delivering it through the transmission system.

To estimate what your savings per kilowatt-hour (KWH) will be through this program, locate your Price to Compare on your electric bill. Divide your Price to Compare by 100, then multiply by 0.0\_\_ (\_\_\_%) to determine your savings per KWH. Multiply that number by your total monthly usage. The final number is how much you can expect to save each month you use the same amount of electricity.

You will see your electric savings from \_\_\_\_\_ after your enrollment has been completed and your switch has been finalized - approximately 30 - 45 days, depending upon your meter read date. Of course, you are not obligated to participate in the Village of La Grange Park's electric governmental aggregation program. If you wish to be excluded from the program and remain a full-service customer of your local electric utility - Commonwealth Edison- you have until \_\_\_\_\_, 2012 to return the attached "opt-out" form. If you do not opt out at this time, you will receive a notice at least every \_\_\_\_\_ asking if you wish to remain in the program. If you leave the program at any other time, you could be subject to a cancellation fee from \_\_\_\_\_ - and you might not be served under the same rates, terms and conditions that apply to other customers served by Commonwealth Edison.

After you become a participant in this governmental aggregation program, Commonwealth Edison will send you a letter confirming your selection of \_\_\_\_\_ as your electric generation provider. As required by law, this letter will inform you of your option to rescind your enrollment with \_\_\_\_\_ with adequate notice prior to the scheduled switch. To remain in the Village's governmental aggregation program, you don't need to take any action when this letter arrives.

Commonwealth Edison will continue to maintain the system that delivers power to your home - no new poles or wires will be built by \_\_\_\_\_. You will continue to receive a single, easy-to-read bill from your local electric utility with your \_\_\_\_\_ charges included. The only thing you'll notice is savings.

If you have any questions, please call \_\_\_\_\_ toll-free at \_\_\_\_\_, Monday through Friday, 8 a.m. to 5 p.m. Please do not call the Village of La Grange Park with aggregation program questions.

Sincerely,

Village of La Grange Park

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**Option 1: Do nothing and save.**

If you want to participate in this program and save, you do not need to return this form. Your enrollment is automatic.



**Option 2: Opt out by returning this form.**

If you do not want to participate in this program, you must return this form before the due date.

Service Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Account Holder's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ORDINANCE NO. 949**

**ORDINANCE AUTHORIZING AGGREGATION  
OF ELECTRICAL LOAD AND ADOPTING  
AN ELECTRIC POWER AGGREGATION  
PLAN OF OPERATION AND GOVERNANCE.**

**Recitals**

1. Recently the Illinois Power Agency Act was amended to add Section 1-92 entitled Aggregation of Electrical Load by Municipalities and Counties, codified as 20 ILCS 3855/1-92 (hereinafter referred to as the "Act").

2. Under the Act, the Village may operate an electric power aggregation program as an opt out program for residential and small commercial retail customers, if a referendum is passed by a majority vote of the residents pursuant to the requirements of the Act.

3. The Village submitted the question in a referendum on March 20, 2012, and a majority of the electors voting on the question voted in the affirmative.

4. The corporate authorities hereby find that it is in the best interests of the Village to operate an electric power aggregation program as an opt out program and to implement the program according to the terms of the Act.

5. The Act requires that prior to the implementation of an opt out electrical aggregation program, the Village must adopt an Electrical Power Aggregation Plan of Operation and Governance and hold not less than two (2) public hearings on a proposed plan.

6. The Village published notice of and held the required Public Hearings for the Electric Power Aggregation Plan of Operation and Governance on May 8, 2012 and May 14, 2012.

**BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE  
VILLAGE OF LA GRANGE PARK, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**Section One:** The corporate authorities of the Village find that the recitals set forth above are true and correct.

**Section Two:** The corporate authorities of the Village find and determine that it is in the best interests of the Village to operate an electrical power aggregation program as an opt out program, as authorized by the Act.

### Section Three:

A. The corporate authorities of the Village are authorized to aggregate residential and small commercial retail electrical loads located within the corporate limits of the Village, and for that purpose may solicit bids and enter into service agreements to facilitate the sale and purchase of electricity and related services and equipment for those aggregated electric power loads.

B. The corporate authorities of the Village are granted the authority to exercise such authority jointly with any other municipality or county and, in combination with two or more municipalities or counties, may initiate a process jointly to authorize aggregation by a majority vote of each particular municipality or county as required by the Act.

C. The Village's Aggregation Program shall operate as an opt out program for residential and small commercial retail customers.

D. The Aggregation Program shall be approved by a majority of the corporate authorities of the Village.

E. The corporate authorities of the Village have developed a Plan of Operation and Governance for the Aggregation Program and have conducted public hearings and provided public notice as required under the Act. The Aggregation Plan provides for universal access to all applicable residential customers and equitable treatment of applicable residential customers, shall describe demand management and energy efficiency services to be provided to each class of customers and shall meet any requirements established by law concerning aggregated service offered pursuant to the Act.

F. The corporate authorities of the Village shall fully inform residential and small commercial retail customers in advance that they have the right to opt out of the Aggregation Program. The disclosure and information provided to the customers shall comply with the requirements of the Act.

G. The electric aggregation shall occur automatically for each person owning, occupying, controlling, or using an electrical load center proposed to be aggregated in the corporate limits of the Village, subject to a right to opt out of the program as described in the Plan and this Ordinance.

Section Four: The Corporate Authorities hereby adopt the Electrical Power Aggregation Plan of Operation and Governance as set forth in Exhibit "A" attached hereto and made a part herein as if fully set forth in this Ordinance.

Section Five: This ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

PASSED by the President and the Board of Trustees of the Village of La Grange Park, Cook County, Illinois, on the 22<sup>nd</sup> day of May, 2012, and deposited and filed in the office of the Village Clerk in said Village on that date pursuant to roll call vote as follows:

Elected Trustees:

Ayes:

Nayes:

Absent:

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Village Clerk, Village of La Grange Park, Illinois

APPROVED by the President of the Village of La Grange Park, Illinois, this 22<sup>nd</sup> day of May, 2012.

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President of the Village of La Grange Park, Illinois

ATTEST:

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Village Clerk of the Village of La Grange Park, Illinois

Published in pamphlet form this 23<sup>rd</sup> day of May, 2012.

*APPROVED AS TO FORM –  
VILLAGE ATTORNEY MAY 16, 2012*

# Village of La Grange Park Electrical Power Aggregation *Informational Packet*

## Included:

- 1) RFP
- 2) Sample Summary Bid Sheet
- 3) Sample Individual Bid Pricing – *to come from each supplier*
- 4) Electric Price Trend Chart
- 5) Draft Master Power Supply Agreement\*

\*This agreement is in draft form at this time. The final will reflect program components, as determined by the Village Board.

# Request for Proposal

For Municipal Aggregated Electricity Supply For  
Residential and Small Commercial Retail Customers

Issued By:

The Village of La Grange Park  
447 N Catherine  
La Grange Park IL 60526

Issue Date: June 5, 2012

Response Date: June 12, 2012  
(1:30 PM Central Time)

The Village of La Grange Park (“La Grange Park” or “Village”) invites Certified Retail Electric Suppliers (Supplier) to submit proposals for Municipal Aggregated Electric Supply and electric related services (Supply Agreement) in accordance with the requirements, terms, and conditions of this Request for Proposal (RFP). The Village has not previously entered into a Supply Agreement. The RFP is designed to support the start of the Village’s program as soon as possible. The electrical distribution company for the Village is Commonwealth Edison (ComEd ). This is a RFP only and is not a purchase order, contract or offer. Selection of the supplier(s) by the Village will be completed and made public no later than June 26, 2012.

## **1.0 – Objective**

1.1 - The Village is seeking to obtain electric cost savings as well as a reliable source of generation for its constituents that it represents in this RFP by aggregating all eligible residential and small commercial retail accounts under Section 1-92 Chapter 20, Act 3855 of the Illinois Compiled Statutes (Act) for power to flow beginning August 14, 2012. Please provide firm pricing to be held open for 24 hours.

1.2 - The Village is seeking a supplier for electric generation as well as a turnkey program including all the aggregation services needed to meet the requirements of the Illinois Commerce Commission and the Act. Such services shall include but not be limited to the following: Governance Plan development assistance, assistance in applying for certification, administration of the opt-out process, provision for a toll-free call- center to handle customer calls, attendance at public meetings as needed and filing of all required reports. The costs for these services shall be included in the pricing offered to the Village.

1.3 The Village may be submitting this RFP on the same day as other municipalities. The Village is requesting an individual response to this RFP. It is not requesting one price for all RFP’s. If submitted with other municipalities, the Northern Illinois Municipal Electric Collaborative, Inc. (NIMEC) will assist the municipalities’ efforts to select the supplier offering the most aggressive bid for the entire group. The goal is to award all the contracts to one supplier. Municipalities will be then individually determine which term is preferable, and accept their bid from the winning supplier.

## **2.0 – Background**

2.1 - The Village held a referendum to select an opt-out program pursuant to the Act and the referendum passed according to the terms of the Act. The Village duly passed an Ordinance

under the Act providing for the aggregation of electric loads on an opt-out program as allowed under the terms of the Act. As a result, La Grange Park now has the right to aggregate the electricity usage of its residential and small commercial retail accounts in the La Grange Park corporate limits to provide savings under this RFP.

2.2 - The Village may elect to hold an individual bid or participate in a group bid. If the Village elects to participate in a group bid, the Village may use NIMEC to assist with the group bid. The Village will not delegate any signing authority to NIMEC or other entity, but will make its own decision to accept or reject their individual bid resulting from the group bid. Suppliers will present individual bids to each community participating in the bid group. NIMEC will create an advisory group, representing and consisting of those communities participating in the bid, to determine the bid winner(s) on the day of the bid. NIMEC will then recommend that each Village accept the bid winner's individual bid for the Village. The Village will then decide to accept or reject their individual bid. Whether or not each community participating in the bid accepts or rejects their individual bid will have no impact upon the individual bids of the other communities.

### **3.0 - Confidentiality and Proprietary Information**

3.1 - Suppliers should treat all information contained in this RFP or provided by the Village as confidential. All information provided by the Village is for proposal purposes only and is not to be disclosed to anyone or used for any other purpose and shall be returned to the Village. Supplier shall take all reasonable precautions in protecting such information. The estimated electric consumption data is attached hereto and made a part hereof by this reference.

3.2 - Responses to this RFP may include proprietary or confidential information. The company shall clearly mark any information provided to the Village that is to be treated as confidential. The Village will take reasonable precautions in protecting such information provided it is clearly identified as propriety or confidential on the page on which it appears. In no event shall the Village be responsible for inadvertent disclosure of information in your response to this RFP.

### **4.0 - Pricing Options**

4.1 - Suppliers will be responsible for payment of any customer processing fee (if any) for those who have switched to the supplier. Please provide pricing for the following two scenarios:

- a) Residential – Excluded from this aggregation will be Residential customers on Utility Hourly pricing, electric Space Heat, those who are being served on 3rd party supply with another RES, as well as municipal accounts under ComEd franchise agreement.
- b) Small Commercial: Excluded from this aggregation will be Small Commercial customers on Utility Hourly pricing, fixture included lighting, electric space heat and those who are being served on 3rd party supply with another RES.

4.2 – Pricing will be a firm commitment for a 24-hour period. Pricing should be quoted at a fixed rate per kWh. This pricing will only be available for those residential and small commercial customers who do not opt-out of La Grange Park’s program.

4.3 - The supplier may not elect to limit participation to specific size customers, if not limited by Illinois state law.

4.4 - Supplier is responsible for fulfilling all requirements necessary to conduct business in the La Grange Park service territory.

4.5 - All pricing will include energy, capacity, transmission and distribution losses, Renewable Portfolio Standard (RPS) charges, imbalances, load factor adjustments, transmission, congestion charges, ancillary services, and applicable taxes.

4.6 – Supplier shall provide pricing for renewable energy in excess of the Illinois RPS. Suppliers shall secure Renewable Energy Credits sourced through Illinois RPS compliant or national green –e certifiable hydroelectric, wind, solar photovoltaic or captured methane-landfill gas.

4.7 - Bidders should use the ComEd rate schedules and/or customer class.

4.8 - All prices must be expressed in terms of ¢/kWh.

4.9 - Supplier shall guarantee delivery of electricity supply to ComEd s system in compliance with ComEd s tariff requirements.

4.10 - Supplier shall provide for the delivery of energy and ancillary services up to the Delivery Point designated in ComEd s Supplier Service Agreement. Supplier shall bear the risk for all transmission costs and any other costs or charges imposed or associated with the delivery of the electricity up to the Delivery Point and Customer shall bear the risk for any and

all ComEd distribution costs, and any other costs or charges associated with the receipt of the electricity at and after the Delivery Point.

4.11 - Taxes: State and/or local taxes shall be clearly identified and not necessarily included in the proposed price including gross receipts tax, county sales tax and excise tax.

4.12 - An administrative fee payable by the selected supplier on at least a quarterly basis is required. The fee amount is \$0.0004/kWh. Only suppliers agreeing to the administrative fee and signing Attachment 2 are eligible to bid. All checks are to be made payable to the Glenview Consulting Group, Ltd. (The Glenview Consulting Group has adopted and transacts business in the state of Illinois under the assumed corporate name of NIMEC.)

4.13 - NIMEC incurred direct costs to educate Village residents regarding the referendum. Direct costs are limited to printing and mailing of educational pieces to Village residents. (Invoices from printers will be provided.) These costs must be reimbursed by the winning supplier to Glenview Consulting within 60 days of the Master Supply Agreement being signed with the municipality. In this instance: Glenview incurred direct costs of: \$1,419.27.

4.14 - The Municipality will incur costs from ComEd to procure and/or refresh load data required for this bid. The Supplier agrees to reimburse the Municipality for these out of pocket costs, which are estimated at \$1,000 to \$1,500.

4.15 - Following the completion of the Opt-Out Period, the Supplier shall be responsible to compile a complete list of all Participating Customers in the Program. Supplier will update this list as new customers are added and deleted. Supplier will make this list available to the Municipality at any time the Municipality requests the list. Additionally, within 120 days of the end of this agreement, Supplier will make the Program's load data by rate class available to the Municipality. Load data shall include:

- Historical Usage Data
- Capacity Peak Load Contribution (PLC) values and effective start and end dates.
- Network Service Peak Load Contribution (PLC) values and effective start and end dates.
- Meter Bill Group Number.
- Rate Code.

## **5.0 - Terms and Conditions**

5.1 - The term of this agreement will be for a period determined by the Corporate Authorities of the Village. Supplier is to notify the Village at least 60 days prior to the end of the term to discuss renewal. At the end of the term of this agreement, if the agreement is not renewed or extended, Supplier agrees to return all residential and small commercial accounts back to ComEd.

5.2 - In the event that the information submitted is unclear, the Village may request additional information or explanation and/or pricing breakdowns for the purpose of evaluation and decision. The Company will answer all requests for additional information in writing, and these responses shall become part of the Company's electric service proposal. Companies failing to provide adequate information on any issues in a timely manner to allow for a comprehensive evaluation by the Village shall be considered unresponsive, and their proposals shall be subject to rejection.

5.3 - Suppliers must demonstrate compliance with all legal and regulatory requirements and must be certified and approved by all applicable or required Illinois agencies and Commonwealth Edison.

5.4 - Any exceptions to the specifications outlined in this RFP, or other considerations requested or required by the electric generation supplier must be submitted in writing describing in detail and submitted as part of the proposal. All Suppliers will be required and expected to meet the specifications in this RFP unless an exception is noted as part of the proposal being submitted.

5.5 - The Village reserves the right to add or delete accounts during the term of the supply agreement without penalty.

## **6.0 – Procedures**

Please deliver signed proposal on or before June 12, 1:30 p.m. electronically by email to [DHoover@NIMEC.net](mailto:DHoover@NIMEC.net), with a copy to Julia Cedillo at [JCedillo@lagrangepark.org](mailto:JCedillo@lagrangepark.org).

Do not contact the Mayor or Aldermen of the Village. Questions regarding this proposal should be directed to the NIMEC, who will administer the process:

David Hoover  
NIMEC

417 Cherry Creek Lane  
Prospect Heights, IL 60070  
Telephone: (847) 392-9300  
Fax:(847) 392-9303  
Email: [DHoover@NIMEC.net](mailto:DHoover@NIMEC.net)

## **7.0 - Other Information**

7.1 - The Village reserves the right to reject any and all proposals, waive any informality in bidding, to negotiate with any or all companies submitting proposals and to enter into an agreement with any company for any services sought in this RFP.

7.2 - The Village reserves the right to later modify any portion of this request for proposals and to request additional specific information and submit additional questions in the discretion of the Village.

7.3 - All costs incurred by the Company in preparing a response to this proposal, including any meetings or visits, shall be at the Company's expense.

7.4 - Each Company shall be responsible for insuring that all Federal, State and Local laws are followed.

7.5- Your response will become the property of the Village once received.

7.6 - All suppliers wishing to provide a bid pursuant to this RFP must duly complete Attachment 1 providing for the price offer options of one year, two year and three year supply agreements, a duly complete and signed by an authorized agent Attachment 2, and a duly complete and signed by an authorized agent Attachment 3. All bids to be acceptable must include Attachments 1,2 and 3.

SAMPLE -- for "Village of [Municipal Name Here], Illinois

	Pricing	Early Termination Fee	Ownership	Rate Guaranty	Civic Contribution	Total Residential	Aggregation Munis/accts	Illinois Aggregations	Ind'l Green	Credit Rtg (Moody / S&P)	Call Center Power Sources
ComEd:	8.500										
Supplier #1	1: 4.64 2: 4.84 3: 5.23	None	Wholly owned subsidiary of Centrica PLC	12 mo. term only	YES	Direct Res'l in IL, CT and PA Total Served: 570,000	Gas: 20 (Ohio): 108,000	(6) 25,700 accts Total in IL: 65,000	NO	A3/A	Overseas, plus US and Canada Coal: 48% Nuclear: 35% Nat Gas: 13% Other: 4%
Supplier #2	1: 5.29 2: 5.89 3: 6.99	None	d/b/a NICOR Electric	YES	YES	Gas in Ohio. Electric in Ohio Total Served: 670,000	(7) 25,000	None	YES	Baa2/A-	Pittsburg Coal: 47% Nuclear: 35% Nat Gas: 14% Other: 4%
Supplier #3	1: 4.69 2: 4.92 3: 5.44	\$25	FirstEnergy Solutions Corp., is the competitive subsidiary of FirstEnergy Corp	YES	YES	1,400,000 residential and small commercial accounts	Extensive (over 400)	6 municipalities in Illinois	YES	Baaa2/BBB-	Ohio Coal: 47% Nuclear: 35% Nat Gas: 14% Other: 4%
Supplier #4	1: 4.979 2: 5.488 3: 6.395	\$50		YES	YES	Total in IL: 80,000	Ohio: 46,000 (Gas)	(5): 38,000	YES	Baa1/BBB+	Michigan Coal: 55% Nuclear: 29% Nat Gas: 12% Other: 4%

Supplier #5	1: 5.485 2: 5.794 3: 6.56	\$25	Parent Company: DPL Energy Resources, Inc.	YES (custom offer)	parent: 500,000 res'l cust's.	DPL: 8 communities in Ohio (12,800)	8 No Shore communities (70,000)	YES	Parent: Ba1/BBB- PA	Coal: 58% Nuclear: 26% Nat Gas: 13% Other: 3%
Supplier #6	1: 5.35 2: 5.788 3: 6.377	None	Privately owned	YES (one year only)	YES	None	None	YES	Private. Preferred supplier/fin ancial support from BP	Coal: 44% Nuclear: 37% Nat Gas: 14% Other: 5%
Supplier #7	1: 4.92 2: 5.375 3: 6.59	\$50	Wholly Owned subsidiary of Exelon Energy	No	YES 30,000 (gas)	Gas: 4 Ohio	2 new in Illinois (1600)		Baa2/BBB Maryland	Coal: 51% Nuclear: 28% Nat Gas: 16% Other: 4%
Supplier #8	1: 4.673 2: 4.922 3: 5.296	\$50	Privately owned	YES	Illinois Experience	Three	3 in Illinois (33,000)	YES	Private LLC. Duns # 13- 839-564 Backed by EDF N. America Rating A3	Coal: 48% Nuclear: 35% Nat Gas: 12% Other: 5%

SAMPLE – from “No-Name” Supplier

Attachment 1 – Fixed Price Cost of Electricity

**RESIDENTIAL (Dollars/kWh) No Civic Contribution**

<b>Additional Renewable</b>	<b>12 Months</b>	<b>24 Months</b>	<b>36 Months</b>
<b>0%</b>	<b>0.05050</b>	<b>0.05488</b>	<b>0.06377</b>
<b>10%</b>	<b>0.05061</b>	<b>0.05099</b>	<b>0.06388</b>
<b>50%</b>	<b>0.05103</b>	<b>0.05544</b>	<b>0.06435</b>
<b>100%</b>	<b>0.05156</b>	<b>0.05600</b>	<b>0.06495</b>

**SMALL COMMERCIAL (Cents/kWh) No Civic Contribution**

<b>Additional Renewable</b>	<b>12 Months</b>	<b>24 Months</b>	<b>36 Months</b>
<b>0%</b>	<b>0.04724</b>	<b>0.05113</b>	<b>0.05854</b>
<b>10%</b>	<b>0.04734</b>	<b>0.05124</b>	<b>0.05866</b>
<b>50%</b>	<b>0.04777</b>	<b>0.05169</b>	<b>0.05914</b>
<b>100%</b>	<b>0.04829</b>	<b>0.05226</b>	<b>0.05973</b>

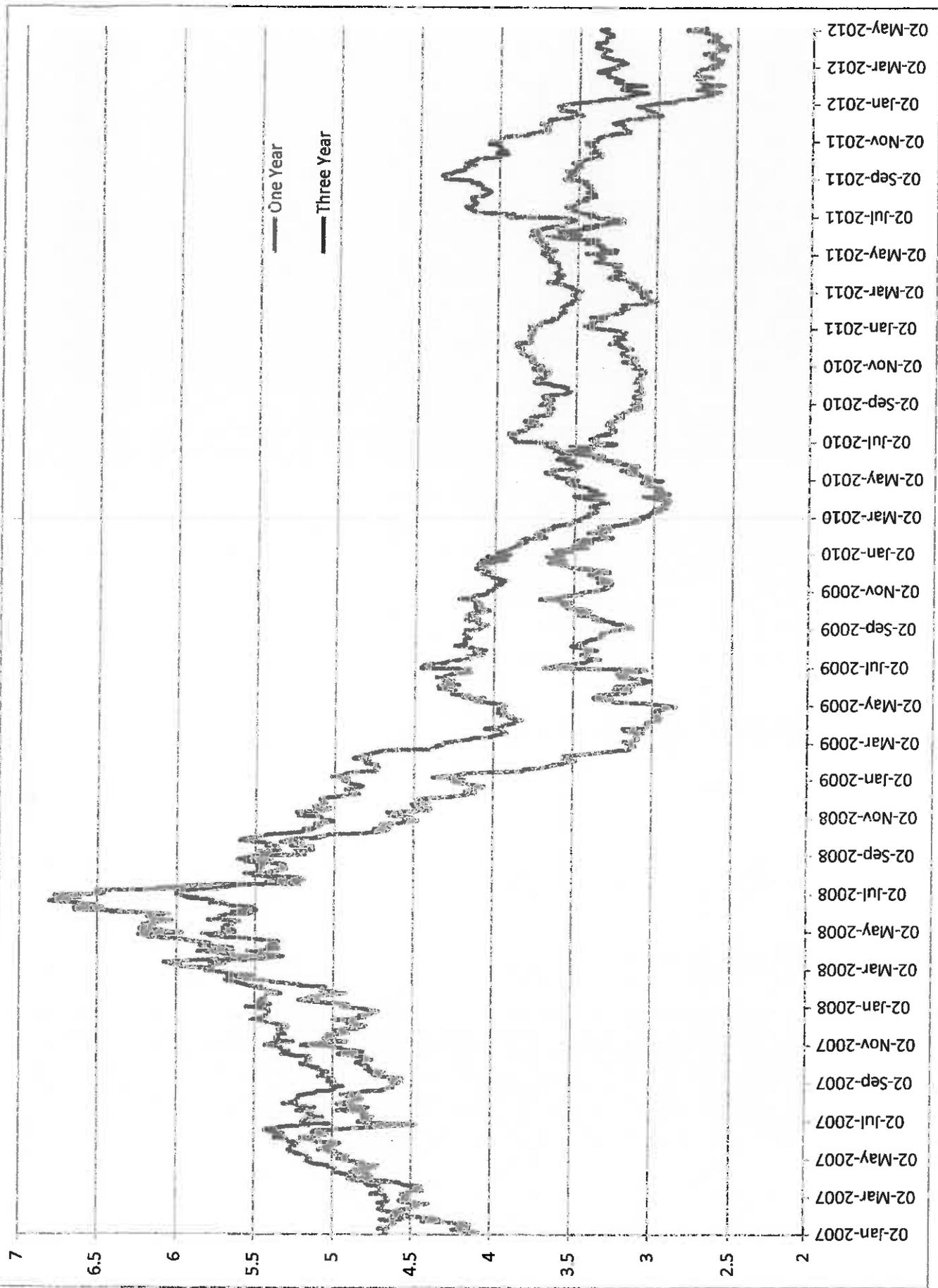
**RESIDENTIAL (Cents/kWh) With Civic Contribution**

<b>Additional Renewable</b>	<b>12 Months</b>	<b>24 Months</b>	<b>36 Months</b>
<b>0%</b>	<b>0.05150</b>	<b>0.05588</b>	<b>0.06477</b>
<b>10%</b>	<b>0.05161</b>	<b>0.05199</b>	<b>0.06488</b>
<b>50%</b>	<b>0.05203</b>	<b>0.05644</b>	<b>0.06535</b>
<b>100%</b>	<b>0.05256</b>	<b>0.05700</b>	<b>0.06595</b>

**SMALL COMMERCIAL (Cents/kWh) With Civic Contribution**

<b>Additional Renewable</b>	<b>12 Months</b>	<b>24 Months</b>	<b>36 Months</b>
<b>0%</b>	<b>0.04824</b>	<b>0.05213</b>	<b>0.05954</b>
<b>10%</b>	<b>0.04834</b>	<b>0.05224</b>	<b>0.05966</b>
<b>50%</b>	<b>0.04877</b>	<b>0.05269</b>	<b>0.06014</b>
<b>100%</b>	<b>0.04929</b>	<b>0.05326</b>	<b>0.06073</b>

Electric Price Trend Chart



**\*This agreement is in draft form at this time. The final will reflect program components, as determined by the Village Board.**

## **MASTER POWER SUPPLY AGREEMENT**

### **AGREEMENT BY AND BETWEEN THE MUNICIPALITY/VILLAGE OF LA GRANGE PARK AND \_\_\_\_\_ TO PROVIDE FULL-REQUIREMENTS ELECTRICITY SUPPLY AND RELATED SERVICES FOR THE VILAGE'S/CITY'S ELECTRIC AGGREGATION PROGRAM**

This Agreement ("Agreement"), is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2012 ("Effective Date") between the MUNICIPALITY/CITY OF \_\_\_\_\_, an Illinois municipal corporation ("Municipality") and \_\_\_\_\_ ("Supplier") (each a "Party" and collectively, the "Parties").

#### **RECITALS**

A. The Municipality has established an Electricity Aggregation Program ("Program") pursuant to the Aggregation Ordinance and the Aggregation Statute, and will conduct the Program as an opt-out program pursuant to the Aggregation Ordinance and the Aggregation Statute.

B. In order to identify qualified suppliers of electricity for the Program, the Northern Illinois Municipal Electric Collaborative ("NIMEC") conducted a Request for Qualifications and Joint Power Supply Bid process.

C. The purpose of this Agreement is for the Supplier to provide the Full-Requirements Electricity Supply Services and the Program Implementation Services as defined herein (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 established in this Agreement.

D. The Supplier acknowledges and agrees that it has all certifications, authorizations, qualifications, and approvals necessary pursuant to the Requirements of Law to sell Full-Requirements Electricity Supply to Eligible Customers pursuant to this Agreement, including without limitation that:

a. 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 distribution systems 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. Supplier has at least three years continuous experience as a Retail Electric Supplier and has provided Full-Requirements Electricity Supply to at least 25,000 residential or commercial customers.

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

**\*This agreement is in draft form at this time. The final will reflect program components, as determined by the Village Board.**

e. The Municipality desires to enter into this Agreement with Supplier for the provision by the Supplier of Full-Requirements Electricity Supply to all Eligible Customers pursuant to the Program.

## AGREEMENT

In consideration of the mutual covenants and agreements contained herein, the Municipality and the Supplier agree as follows:

### ARTICLE 1 RECITALS

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

### ARTICLE 2 DEFINITIONS

The following terms shall have the meanings ascribed to them in this section:

2.1. "Aggregate" means the total number of Eligible Customers that are within the jurisdictional boundaries of the Municipality.

2.2. "Aggregation Ordinance" means that certain ordinance adopted by the Municipality authorizing the Program.

2.3. "Aggregation Statute" means Section 1-92 of the Illinois Power Agency Act, 20 ILCS 3855/1-92 and applicable rules and regulations of the Illinois Commerce Commission.

2.4. "Bid Package" means the bid documents provided to the pre-qualified bidders pursuant to the Power Supply Bid and attached to this Agreement as Exhibit A.

2.5. "Bid Response" means the response submitted by the Supplier to the Bid Package, which is attached to this Agreement as Exhibit B.

2.6. "Billing Services" means those services described in Section 4.4 of this Agreement, including all subsections of Section 4.4.

2.7. "ComEd" means Commonwealth Edison.

2.8. "Compliance Services" means those services identified in Section 4.5 of this Agreement, including all subsections of Section 4.5.

2.9. "Confidential Information" means the information defined in Section 9 of this Agreement.

2.10. "Customer Information" means that certain information that the Electric Utility is required to provide to the corporate authorities of the Municipality pursuant to the

Aggregation Statute, including without limitation those names and addresses and Electric Utility account numbers 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.

2.11. "Data" means the data defined in Section 9 of this Agreement.

2.12. "Electric Utility" means ComEd.

2.13. "Eligible Customers" means residential and small commercial electricity customers receiving Full-Requirements Electricity Supply within the Municipality who are eligible to participate in the Program pursuant to the Aggregation Statute and the Requirements of Law.

2.14. "Energy" means generated electricity.

2.15. "Enrollment Services" means those services described in Section 4.3 of this Agreement, including all subsections of Section 4.3.

2.16. "Extended Term" means the term defined in Section 5.1 of this Agreement.

2.17. "Force Majeure Event" means the circumstances defined in Section 7.1 of this Agreement.

2.18. "Full-Requirements Electricity Supply" means all services or charges necessary to provide the continuous supply of electricity to all Participating Customers, including, without limitation, Energy, capacity, losses, renewable portfolio standard (RPS) charges, imbalances, load factor adjustments, transmission costs, congestion charges, marginal losses, ancillary services, taxes applicable only to the Supplier, and any additional necessary services or charges.

2.19. "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.

2.20. "ICC" means the Illinois Commerce Commission

2.21. "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.

2.22. "Joint Power Supply Bid" means the bidding process conducted by NIMEC on behalf of the Municipality to identify the Supplier.

2.23. "New Customers" means the customers defined in Section 4.3.9 of this Agreement.

2.24. "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 Requirements of Law:

2.25. "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 Requirements of Law.

2.26. "Opt-Out Process" means the process defined in Section 4.2.1 of this Agreement.

2.27. "Participating Customers" means those Eligible Customers who do not opt out of the Program and are not Special Billing Customers, and New Customers.

2.28. "Plan of Governance" or "POG" means that certain Plan of Operation and Governance approved by the Municipality on \_\_\_\_\_, 2012, pursuant to the Aggregation Statute

2.29. "Point of Delivery" means the point specified by the Electric Utility at which the Supplier must deliver the Full-Requirements Electricity Supply to the Electric Utility for distribution to Participating Customers.

2.30. "Price" means the fixed price expressed in cents per kilowatt hour at which the Supplier will provide the Services as set forth in Exhibit C to this Agreement.

2.31. "Program" means the electricity aggregation program operated by the Municipality 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 Municipality for the purpose of soliciting and entering into service agreements to facilitate for those loads the sale and purchase of Full-Requirements Electricity Supply and related Services.

2.32. "Program Implementation Services" means those portions of the Services described in Section 4.2 of this Agreement, including all subsections of Section 4.2.

2.33. "Requirements of Law" means the Aggregation Ordinance, the Aggregation Statute, the Plan of Governance, the rules and regulations of the ICC and Illinois Power Agency (including the ICC Order in Case No. 11-0434 issued on April 4, 2012), 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, all as may be hereinafter duly amended.

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

2.35. "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.

2.36. "Special Billing Customers" means the customers defined in Section 4.3.8 of this Agreement.

2.37. "Supplier" means \_\_\_\_\_ and the lawful successor, transferee, designee, or assignee thereof.

2.38. "Tariffed Service" means the applicable tariffed services provided by the Electric Utility as required by 220 ILCS 5/16-103 at the rates established in ComEd's "Price to Compare" for the applicable rate class, as posted on the ICC website, which includes ComEd's electricity supply charge plus ComEd's transmission series charge, but does not include ComEd's purchased electricity adjustment.

2.39. "Term" means the period of time defined in Section 5.1 of this Agreement.

2.40. "Municipality" means the Municipality/Village of La Grange Park.

2.41. "Withdrawing Customer" means a customer defined in Section 4.3.6 of this Agreement.

### ARTICLE 3 PROGRAM RESPONSIBILITIES

#### 3.1 Municipality Responsibilities.

3.1.1 Customer Information. The Municipality shall, with the assistance of the Supplier, pursuant to the Requirements of Law, obtain the Customer Information from ComEd.

3.1.2 Notices and Customer Information from ComEd. The Municipality shall promptly forward to Supplier the Customer Information received from ComEd and each Party will promptly provide to the other Party any notices received by that Party from ComEd concerning the accounts of Eligible or Participating Customers.

3.1.3 Submittals to ComEd. The Municipality shall, with the assistance of Supplier, submit to ComEd (a) the "Government Authority Aggregation Form", (b) a list of Eligible Customers who are not Participating Customers because they have elected to opt out of the Program, and (c) a list of all Participating Customers.

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

3.1.5 No Municipality 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 Municipality 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 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 Municipality 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. Supplier shall comply with all Requirements of Law.

3.2.3 Supplier Press Releases. The Supplier may issue press releases concerning the Program that are approved in advance by the Municipality prior to issuance.

3.2.4 That all information provided by The Supplier to Municipality or any of its agents relating to this Agreement in any way shall be true and accurate in all respects at all times.

#### ARTICLE 4 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. 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. 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. Supplier will cause to be transmitted and delivered to the Electric Utility at the Delivery Point sufficient Energy to provide continuous Full-Requirements Electricity Supply to all Participating Customers. The Municipality 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 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. Supplier acknowledges and agrees that if the Supplier fails to comply with any requirement related to the Full-Requirements Electricity Supply to the Participating Customers pursuant to this Agreement, including without limitation if Supplier fails to schedule all or part of the Full-Requirements Electricity Supply for any Participating Customer, 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 4.1.3 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 payments or compensation, except that the Supplier may impose an early termination fee on Withdrawing Customers pursuant to Section 4.3.5 of this Agreement. The Municipality acknowledges that the Price does not include sales or other consumer-based taxes applicable to Participating Customers or other taxes that are not applicable to the Supplier

4.1.3 Price Guarantee. If the rates for Tariffed Service to a particular rate class are set below the Price during the Term of this Agreement, Seller will either (a) provide the Services to Participating Customers in such class at a price equal to the rate for Tariffed Services, or (b) after taking all steps necessary to return all Participating Customers to the Electric Utility, terminate this Agreement without damages or early termination fees to either Party. Notwithstanding the foregoing, termination under this Section 4.1.3 may be avoided if the Municipality determines that the Aggregation Program should remain in place at the Price without the need to match. In such an event, the Parties shall enter into a written agreement and the Municipality shall not waive any rights set forth herein by allowing the Price to remain in place without the need to match unless the Municipality specifically agrees in writing.

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. Supplier, at its sole cost and expense, shall, with the assistance of the Municipality, 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. Supplier, at its own expense, shall be fully responsible to prepare and mail form Opt-Out Notices to all Eligible Customers as required pursuant to the Requirements of Law. Opt-Out Notices must include all information required pursuant to the Requirements of Law, including without limitation including the terms and conditions of participation in the Program, the cost to the Customer of Full-Requirements Electricity Supply under the Program, the methods by which 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 Section 4.2.1.3. The form and content of the Opt-Out Notices must be approved by the Municipality prior to mailing by the Supplier. In addition to the Opt-Out Notices, the Supplier will provide Participating Customers with terms and conditions for the provision

of Full Requirements Electric Supply to those Participating Customers, which terms and conditions shall comply with and accurately reflect all of the requirements of this Agreement and the Requirements of Law and shall be substantially similar to the form attached in Exhibit F.

4.2.1.2 Notices to Special Billing Customers. The Municipality acknowledges that the Municipality may provide notices to Special Billing Customers concerning the Program, the Price, the rates charged to Special Billing Customers under their existing service, and the opportunity for 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 Customers 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. Supplier will be required to support Spanish speaking residents and customers with disabilities.

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

4.2.2 Required Disclosures. 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.

4.3 Enrollment Services. The Supplier must supply the following Enrollment Services as 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 Customers 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, 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 Municipality's implementation schedule which is attached as Exhibit E.

4.3.5 **Payment of Switching Fees.** The Supplier shall reimburse Participating Customers for any switching fee imposed by the Electric Utility related to the enrollment of a Participating Customer in the Program within 30 days of receiving notice of such switching fee. The Supplier shall not be responsible to pay any switching fees imposed on Participating Customers who switch service from an alternative retail electric supplier.

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 Customer desires to withdraw from the Program ("Withdrawing Customer"), the Supplier must, at the direction of the Participating Customer, drop the Participating Customer from the Supplier's Full-Requirements Electricity Supply on the next available meter read, which will result in restoring the Participating Customer to Tariffed Service. The Supplier may assess an early termination fee of \$\_\_\_\_\_ to Withdrawing Customers, provided that no early termination fee may be assessed to Withdrawing Customers who notify the Supplier that they are withdrawing because they are moving out of the Municipality.

4.3.7 **Customer Service Inquiries.** After completion of the Opt-Out Period, 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. Supplier must promptly and courteously address customer service inquiries in a manner that meets or exceeds the ICC requirements for the operation of call centers.

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:

4.3.8.1. Any Eligible Customer to which the following ComEd delivery classes are applicable:

- Residential Single Family With Electric Space Heat Delivery Class
- Residential Multi Family With Electric Space Heat Delivery Class

4.3.8.2. 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:

- Rate BESH – Basic Electric Service Hourly Pricing
- Rate RDS – Retail Delivery Service; and

4.3.8.3. 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. (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 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:

- 4.3.9.1. Any Eligible Customer within the Municipality that moves to a new location within the Municipality;
- 4.3.9.2. Any Eligible Customer that moves into an existing location within the Municipality;
- 4.3.9.3 Any Eligible Customer that previously opted out of the Program during the Opt-Out Period; and
- 4.3.9.4 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 provided in this Section 4.4:

4.4.1 Billing Generally. Supplier shall confirm that billing to Eligible Customers 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. The Municipality 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

4.4.2 Customer Classes. Eligible Customers 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 Customers 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

4.4.2.1 Commercial Customer Class. The commercial customer class shall include those Participating Customers taking service from ComEd under the following rates:

- 15,000 kWh's or less Delivery Class

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

4.6 Following the completion of the Opt-Out Period, the Supplier shall be responsible to compile a complete list of all Participating Customers in the Program. Supplier will update this list as new customers are added and deleted. Supplier will make this list available to the Municipality at any time the Municipality requests the list. Additionally, within 120 days of the end of this agreement, Supplier will make the Program's load data by rate class available to the Municipality. Load data shall include:

- Historical Usage Data
- Capacity Peak Load Contribution (PLC) values and effective start and end dates.
- Network Service Peak Load Contribution (PLC) values and effective start and end dates.
- Meter Bill Group Number.
- Rate Code.

## ARTICLE 5 TERM

5.1 Term. This Agreement commences as of the Effective Date and is for a term of    [# of months] (  ) consecutive monthly billing periods starting from the initial meter read date designated by the Municipality in consultation with the Supplier in    [initial meter read date]\_2012, and expires at the end of the last day of the [# of months]\_th billing cycle for the Participating Customer(s) with the latest billing cycle (the "Term"). The Municipality and the Supplier may extend the Term for additional periods of time up to 3 years for each extension, by written agreement approved and executed by each Party (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 Municipality to the Supplier will continue beyond the Term or an approved Extended Term. Notwithstanding the provisions of this Section 5.1, if the rate for Tariffed Service falls below the Price during the Term, the Supplier may terminate this Agreement after returning Participating Customers to Tariffed Service as provided in Section 4.1.3 of this Agreement.

5.2 In the event this agreement is not renewed or terminated for any reason, including expiration according to its terms, the Municipality may choose another RES or Retail Electric Supplier and Supplier shall allow all Participating Customers to be switched to the selected RES, or all Participating Customers shall be switched by the Supplier to service with ComEd in accord with the standard switching rules and applicable notices or as otherwise required by any applicable law or regulation.

## ARTICLE 6 REMEDIES AND TERMINATION

6.1 Municipality's General Remedies. In addition to every other right or remedy provided to the Municipality under this Agreement, if the Supplier fails to comply with any of the provisions of this Agreement (for reason other than a Force Majeure Event pursuant to Section 7.1 of this

Agreement or a Regulatory Event pursuant to Section 7.2 of this Agreement, then the Municipality may give notice to the Supplier specifying that failure. The Supplier will have 15 calendar days after the date of that notice to take all necessary steps to 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 reasonably be achieved within 15 calendar days but the Supplier promptly commences a cure and diligently pursues the cure to completion. If the Supplier fails to comply within that 15-day period, or the shorter period if an imminent threat, or if the Supplier fails to promptly commence a cure and diligently pursue the cure to completion, then the Municipality, subject to the limits of applicable federal or State of Illinois law, may take any one or more of the following actions:

- 6.1.1 Seek specific performance of any provision of this Agreement or seek other equitable relief, and institute a lawsuit against the Supplier for those purposes.
- 6.1.2 Institute a lawsuit against the Supplier for breach of this Agreement and, except as provided in Section 6.3 of this Agreement, seek remedies and damages as the court may award.
- 6.1.3 In the case of noncompliance with a material provision of this Agreement, declare this Agreement to be terminated in accordance with the following:

6.1.3.1 The Municipality will give written notice to the Supplier of the Municipality's intent to terminate this Agreement ("Termination Notice"). The notice will set forth with specificity the nature of the noncompliance. The Supplier will have 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 Municipality has not received a response from the Supplier, or if the Municipality does not agree with the Supplier's response or any remedy proposed by the Supplier, then the Municipality will conduct a hearing on the proposed termination. The Municipality will serve notice of that hearing on the Supplier at least 10 business days prior to the hearing, specifying the time and place of the hearing and stating the Municipality's intent to terminate this Agreement.

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

6.1.3.3 The decision of the Municipality must be in writing and delivered to the Supplier by certified mail.

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

6.2 **Actions on Termination or Expiration of this Agreement.** This Agreement shall terminate upon the expiration of the Term or an Extended Term, as applicable (with the understanding that the expiration of service for any particular Participating Customer will be tied to that customer's billing cycle), or the Municipality's termination of the Agreement pursuant to Section 6.1 or 4.1.2. Upon termination as a result of expiration of the Term (absent agreement upon an Extended Term), or upon termination as a result of expiration of an Extended Term, as applicable, Supplier shall return Participating Customers to Tariffed Service upon expiration of the Term or Extended Term, as applicable, on the first available meter read. In the event of the Municipality's termination of the Agreement prior to the end of the Term or Extended Term pursuant to Section 6.1.c, as applicable, Supplier shall return Participating Customers to Tariffed Service on the second available meter read in order to provide the opportunity for Participating Customers to identify alternate sources of electrical supply prior to returning to Tariffed Service. Participating Customers shall not be liable for any termination fee as a result of such termination or expiration in accordance with the preceding sentences of this Section 6.2. Supplier shall not be responsible to any Participating Customer for any damages or penalties resulting from the return to Tariffed Service, including claims relating to the Tariffed Service price being higher than the Price herein.

6.3 **Limitation of Liability.** Except for the Supplier's failure to provide Full-Requirements Electricity Supply to Participating Customers or the disclosure of Customer Information in violation of the Requirements of Law, or as otherwise specifically provided herein, in no event will either Party be liable to the other Party under this Agreement for incidental, indirect, special, or consequential damages connected with or resulting from performance or non-performance of this Agreement, irrespective of whether such claims are based upon breach of warranty, tort (including negligence of any degree), strict liability, contract, operation of law or otherwise.

## ARTICLE 7 FORCE MAJEURE EVENTS AND REGULATORY EVENTS

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 a strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, or other event that is reasonably beyond the Supplier's ability to anticipate or control. . Non-compliance or default attributable to a Force Majeure Event shall be corrected within a reasonable amount of time after the Force Majeure Event has ceased.

7.2 **Regulatory Event.** 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 or (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 Charges. Any material increase in generation, energy, or utility taxes or charges enacted and effective after the Effective Date of this Agreement. The imposition of such tax or charge after the Effective Date of this Agreement is not subject to automatic pass-through in Price, but would only constitute a Regulatory Event if the imposition of the charge materially and adversely affects Supplier's ability to perform.
- d. Occurrence of Regulatory Event. **Within ten (10) days of** the occurrence of a Regulatory Event, the adversely affected Party shall give notice to the other Party that such event has occurred. Within thirty (30) days, or such other period as the Parties may agree in writing, the Parties shall enter into good faith negotiations to amend or replace this Agreement so that the adversely affected Party is restored as nearly as possible to the economic position it would have been in but for the occurrence of the Regulatory Event. If the Parties are unable to agree upon an amendment to this Agreement, within thirty (30) days or such other period as the Parties may agree in writing, the adversely affected Party shall have the right, upon ten (10) days prior written notice, to terminate and close out its obligations under this Agreement.

## ARTICLE 8 INDEMNIFICATION AND INSURANCE

8.1 Indemnification. The Supplier shall indemnify and hold harmless the Municipality, its officers, employees, agents, and attorneys, from and against any third party injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising from the Supplier's provision of the Services, except to the extent caused by the sole negligence of the Municipality.. 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 Municipality shall give the Supplier timely written notice of its obligation to indemnify and defend the Municipality after the Municipality'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 Municipality. Nothing herein shall be construed to limit the Supplier's duty to indemnify the Municipality by reference to the limits of insurance coverage described in this Agreement.

8.2 Insurance. Contemporaneous with the Supplier's execution of this Agreement, the Supplier shall provide certificates of insurance, all with coverages and limits as set forth in Exhibit D to this Agreement. For good cause shown, the Municipality Manager, Municipality Administrator, or his or her 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 Municipality Manager, Municipality Administrator, or his or her designee may impose in the exercise of his sole discretion. Such certificates and policies shall be in a form acceptable to the

Municipality and from companies with a 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 become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the Municipality. The Supplier shall, at all times during the term of this Agreement, maintain and keep in force, at the Supplier's expense, the insurance coverages provided above.

## ARTICLE 9 CONFIDENTIAL INFORMATION

9.1 Confidential and Proprietary Information. Notwithstanding anything to the contrary set forth herein, the Parties are not required to disclose information which they reasonably deem to be proprietary or confidential in nature. The Parties agree that any information disclosed by a Party and designated as proprietary and confidential shall only be disclosed to those officials, employees, representatives, and agents of the other Party that have a need to know in order to administer and enforce this Agreement. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to a Party's corporate structure and affiliates, marketing plans, financial information unrelated to the calculation of the Price or rates pursuant to the Requirements of Law, or other information that is reasonably determined by a Party to be competitively sensitive. A Party may make proprietary or confidential information available for inspection but not copying or removal by the other Party's representatives. Compliance by the Municipality with the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. ("Illinois FOIA"), including compliance with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois FOIA, or with a decision or order of a court with jurisdiction over the Municipality, shall not be a violation of this Section.

9.2 Ownership of Data and Documents. All data and information, regardless of its format, developed or obtained under this Agreement ("Data"), other than the Supplier's confidential information, will be and remain the sole property of the Municipality. The Supplier must promptly deliver all Data to the Municipality at the Municipality's request. The Supplier is responsible for the care and protection of the Data until that delivery. The Supplier may retain one copy of the Data for the Supplier's records subject to the Supplier's continued compliance with the provisions of this Agreement.

9.3 Limitations on Customer Information. Both Parties acknowledge and agree that the Customer Information is subject to, and must be maintained in compliance with, the limitations 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.

9.4 Limitations on Customer Information. Both Parties acknowledge and agree that the Customer Information is subject to, and must be maintained in compliance with, the limitations 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, Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2HH, the ICC Order in Case No. 11-0434 issued April 4, 2012, and the provisions of ComEd's Tariff Rate GAP. Municipality shall warrant to ComEd that customer-specific information provided to the Municipality in accordance with the provisions of ComEd's Tariff

Rate GAP shall be treated as confidential. To protect the confidentiality of Customer Information:

9.4.1 Supplier access to Customer Information is limited those authorized representatives of Supplier, or any third party, who have a need to know the information for purposes of this Agreement.

9.4.2 Supplier warrants that it will not disclose, use, sell, or provide Customer Information to any person, firm or entity for any purpose outside of the aggregation program.

9.4.3 Supplier and Municipality acknowledge that Customer Information remains the property of the Municipality and that material breaches of confidentiality will prohibit Supplier from placing any new bids to the Municipality's subsequent Request(s) for Qualifications for a period of one year after termination of this Agreement.

9.4.4 Supplier warrants that it will delete and/or destroy the Customer Information described in Items 18 through 23 of the Company Obligations Section of ComEd's Tariff Rate GAP, and provided by Municipality, within 60 days after ComEd provides the information to Municipality. Municipality will offer its assistance to ensure that Supplier meets these requirements and deadlines.

9.5 Proprietary Rights, Survival. Each Party acknowledges the proprietary rights of the other Party in and to the Confidential Information. The obligations under this Article Nine shall survive the conclusion or termination of this Agreement for two (2) years.

ARTICLE 10  
MISCELLANEOUS

10.1 Notices. Any notices, requests or demands regarding the services provided under this Agreement and the Attachments shall be deemed to be properly given or made (i) if by hand delivery, on 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 the other Party.

To Municipality  
\_\_\_\_\_

To Supplier  
\_\_\_\_\_

With a copy to:  
\_\_\_\_\_

With a copy to:  
\_\_\_\_\_

10.2 Mutual Representations and Warranties. Each Party represents and warrants to the other Party, as of the date of this Agreement, that:

- a. It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation, and if relevant under such laws, in good standing;
- b. It has the corporate, governmental and/or other legal capacity, authority and power to execute, deliver and enter into this Agreement and any other related documents, and perform its obligations under this Agreement, and has taken all necessary actions and made all necessary determinations and findings to authorize such execution, delivery and performance;
- c. The execution, delivery and performance of this Agreement does not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets; and
- d. It has reviewed and understands this Agreement; and
- e. It, to the extent applicable, shall comply with all the Requirements of Law.

10.3 Supplier agrees that all information presented in its Response to Qualifications for Municipal Aggregated Electricity Supply For Member Communities of the Northern Illinois Municipal Electric Collaborate, dated [April 23 2012 for First Energy only] \_\_\_\_\_, are accurate and there have been no material changes to that information. Any exceptions are noted on attached exhibit and made part of this agreement.

10.4 Entire Agreement. This Agreement and the response to qualifications referenced in 10.3, including all Attachments hereto, contains all of the terms and conditions of this Agreement reached by the Parties, and supersedes all prior oral or written agreements with respect to this Agreement. This Agreement may not be modified, amended, altered or supplemented, except by written agreement signed by both 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 in writing by the Party making the waiver.

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

10.6 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.

10.7 Applicable Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois without regard for the conflicts of law provisions thereof.

10.8 Controlling Provisions. In the event of any inconsistency between the terms herein and the terms of the Exhibits hereto, the provisions of the Agreement shall control.

10.9 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.

10.10 Venue. Except as to any matter within the jurisdiction of the ICC, 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.

10.11 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.

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

10.13 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.

10.14 Authority to Sign Agreement. Each Party warrants to the other Party that it is authorized to execute, deliver and perform this Agreement. The individual signing this Agreement on behalf of each Party warrants to the other Party that he/she is authorized to execute this Agreement in the name of the Party for which he/she is signing.

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

10.16 Non-Assignability. This Agreement shall not be transferred or assigned by the Supplier without the express written authorization of the Municipality.

10.17 Counterparts. 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.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective on the date first written above.

Supplier: \_\_\_\_\_

Municipality: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_

**EXHIBIT A BID PACKAGE**

**EXHIBIT B BID RESPONSE**

EXHIBIT C:

PRICE

Residential Customer Class

Price: \_\_\_\_\_ per KWh\*

Commercial Customer Class

Price: \_\_\_\_\_ per KWh\*

Termination Fee for Withdrawing Customers:

Residential: \$ \_\_\_\_\_ per utility account

Commercial: \$ \_\_\_\_\_ per utility account

Term: \_\_\_\_\_ months

Renewable Energy Credits, if any: \_\_\_\_\_

## EXHIBIT D

### INSURANCE COVERAGES

A Worker's Compensation and Employer's Liability with limits not less than:

(1) Worker's Compensation: Statutory;

(2) Employer's Liability:

\$500,000 injury-per occurrence

\$500,000 disease-per employee

\$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois.

B Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

C. Comprehensive General Liability

a. with coverage written on an "occurrence" basis with limits no less than:

\$1,000,000 Bodily Injury and Property Damage Combined Single Limit

Coverage is to be written on an "occurrence" bases.

Coverages shall include:

Broad Form Property Damage Endorsement

Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)

b. with coverage written on a "claims made" basis with limits no less than:

\$1,000,000 Bodily Injury and Property Damage Combined Single Limit

Coverage is to be written on an "claims made" bases.

Coverages shall include:

Broad Form Property Damage Endorsement

Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)

D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of the Contract.

E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

F. Owner as Additional Insured. Owner shall be named as an Additional Insured on all policies except for:

Worker's Compensation

Professional Liability

Each such additional Insured endorsement shall identify Owner as follows: Village of , including its Board members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives.

- G. Other Parties as Additional Insureds. In addition to Owner, the following parties shall be named as additional insured on the following policies:

Additional Insured Policy or Policies

Exhibit F  
Electricity Purchase and Sale Terms and Conditions

The Municipality/Village of La Grange Park (Municipality), pursuant to the aggregation authority conferred upon it by the Illinois Power Agency Act, 20 ILCS 3855/1-92, and Municipality Ordinance No. \_\_\_\_\_, adopted by the Municipality's corporate authorities on \_\_\_\_\_, 2012 ("Aggregation Ordinance") establishing the Municipality's Electric Aggregation Program ("Program"), selected \_\_\_\_\_ ("Seller") to supply electricity and to administer enrollments as described below pursuant to that certain Agreement between the Municipality and Seller dated \_\_\_\_\_, 2012 ("Program Agreement"). The account holder (also referred to as "Buyer") for each eligible account associated with the service address referenced on the letter accompanying these Electricity Purchase and Sale Terms and Conditions (the "Account"), and Seller agree to the following terms and conditions. Seller and Buyer (individually referred to as "Party" and collectively as "Parties") agree to the following Electricity Purchase and Sale Terms and Conditions ("Agreement"), as of \_\_\_\_\_, 2012 for Opt-Out Enrollments or the date of Buyer's enrollment with Seller for Opt-In Enrollments (the "Effective Date").

1. Eligibility. To be eligible to participate in the Program, the Account(s) to be served (i) must be located within the Municipality's jurisdictional boundaries, (ii) must be served by ComEd (the "Utility"), and (iii) may not have franchised service with a municipal account.

a. Residential Customer Class. To be eligible for the Residential Rate, the Account(s) to be served must be designated by the Utility as belonging to one of the following delivery classes: (i) Residential Single Family Without Electric Space Heat Delivery Class, (ii) Residential Multi Family Without Electric Space Heat Delivery Class, (iii) Residential Single Family With Electric Space Heat Delivery Class, or (iv) Residential Multi Family With Electric Space Heat Delivery Class. Notwithstanding the foregoing, if the Account(s) to be served are (i) on a residential space heat rate, (ii) on an hourly billing rate, or (iii) under contract with another retail electric supplier, the Account(s) are not eligible for Opt-Out Enrollment as defined in Section 2a below but are eligible for Opt-In Enrollment as defined in Section 2b below.

b. Commercial Customer Class. To be eligible for the Commercial Rate, the Account(s) to be served must be designated by the Utility as belonging to one of the following delivery classes: (i) Watt-Hour Delivery Class or (ii) Small Load Delivery Class. Notwithstanding the foregoing, if the Account(s) to be served are (i) on an hourly billing rate or (ii) under contract with another retail electric supplier, the Account(s) are not eligible for Opt-Out Enrollment as defined in Section 2a below but are eligible for Opt-In Enrollment as defined in Section 2b below.

2. Enrollment.

a. Opt-Out Enrollment (Automatic Enrollments due to non-action by \_\_\_\_\_, 2012). Enrollment is automatic if (i) the Account(s) to be served is/are eligible and (ii) Buyer does not opt-out of the Program. **IF BUYER DOES NOT WISH TO PARTICIPATE IN THE PROGRAM, THEY MUST OPT-OUT BY \_\_\_\_\_, 2012. THE BUYER CAN OPT-OUT**

**BY (I) RETURNING THE DESIGNATED POSTCARD, (II) CALLING SELLER TOLL-FREE AT (888) \_\_\_\_\_, OR (III) CONTACTING SELLER ONLINE AT WWW..**

b. Opt-In Enrollment (Affirmative Enrollments). Enrollment is open to those who opt-out or are otherwise not automatically enrolled if (i) the Account(s) to be served is/are eligible and (ii) Buyer chooses to opt-in to the Program. A Buyer can Opt-In by (i) calling Seller toll-free at (888) \_\_\_\_\_ or (ii) contacting Seller online at www.

3. Term. This Agreement shall become binding on the Effective Date and shall remain in effect through Buyer's \_\_\_\_\_ 2013 meter reading ("Term"), unless (i) this Agreement is terminated pursuant to its terms or (ii) the Program Agreement is terminated by the Municipality pursuant to its terms. Notwithstanding the Effective Date, the obligation of Seller to sell and schedule electricity for delivery to Buyer and the obligation of Buyer to purchase, take and pay for electricity shall commence on the Account's \_\_\_\_\_ 2012 meter read (for Opt-Out Enrollments) or the first available meter read following Opt-In for Opt-In Enrollments, and shall be contingent upon: (a) successful enrollment by the Utility identified and (b) if applicable, the passage of the Rescission Period (defined in Section 4) without effective cancellation by Buyer. Successful enrollment by the Utility is dependent upon (i) the eligibility of Buyer's Utility account(s), as determined by the Utility, to take from a retail electric supplier and to participate in the Utility's purchase of receivables program (including service class and past payment history), and (ii) the accuracy and completeness of any information submitted by Buyer.

4. Rescission Period. Buyer may cancel its enrollment without penalty.

5. Price.

a. Fixed Rate. During the Term, Buyer shall pay the Fixed Rate multiplied by the billing cycle usage the Account(s) served.

i. Residential Rate. During the Term, Buyers to which the Residential Customer Class is applicable shall pay the Fixed Rate of \_\_\_\_\_ cents per kWh.

ii. Commercial Rate. During the Term, Buyers to which the Commercial Customer Class is applicable shall pay the Fixed Rate of \_\_\_\_\_ cents per kWh.

b. Switching Fees. Seller does not charge Buyer a separate fee to switch to Seller's service. If ComEd charges a fee for enrolling the Account(s) to Seller's service, Seller will reimburse Buyer for any such fees within thirty (30) days. If Buyer is currently receiving electricity pursuant to an agreement with another retail electric supplier, that supplier may charge Buyer for switching electricity providers. Seller will not reimburse Buyer for any such fees.

c. Price Match. If the Utility's Price to Compare for the Account(s)' rate class are set below the Fixed Rate during the Term of this Agreement, Seller will either (a) lower the Fixed Rate identified above to match that of the Utility's applicable Price to Compare or (b) terminate this Agreement without damages or early termination fees to either Party. "Utility's Price to Compare" shall mean ComEd's "Price to Compare" for the applicable rate class, as posted on the

ICC website ([www.pluginillinois.org](http://www.pluginillinois.org)), which includes ComEd's electricity supply charge plus ComEd's transmission services charge, but shall not include ComEd's purchased electricity adjustment. Notwithstanding the foregoing, termination (in circumstances described in this paragraph) may be avoided if the Village determines that the Aggregation Program should remain in place at the Fixed Rate agreed to without the need to match. In such event, the parties shall enter into a written agreement and the Village shall not waive any rights set forth herein by allowing the fixed rate to remain in place without the need to match unless the Village specifically agrees in writing.

6. **Expiration.** Absent termination prior to the end of the Term as permitted herein, in the event the Program Agreement is not renewed by the Municipality prior to the end of the Term of this Agreement, Buyer will be restored to tariffed service at the end of the Term.

7. **Billing and Payment.** Buyer will be invoiced for Seller's charges and the Utility's delivery charges on monthly invoice(s) Buyer receives from the Utility, and such billing and payment shall be subject to the applicable Utility rules regarding billing and payment procedures. Seller's charges or credits not invoiced through the Utility shall be invoiced or credited, respectively, directly by Seller. Seller may cause the Utility to correct previous invoices in the event of invoicing errors.

8. **Taxes.** Any tax levied against Seller by any governmental entity, exclusive of Seller's income tax or taxes levied on Seller's real or personal property that must be paid by Seller shall be passed through to and borne and reimbursed by Buyer. Buyer must provide Seller with any applicable exemption certificates. Buyer shall pay any such taxes unless Seller is required by law to collect and remit such taxes, in which case Buyer shall reimburse Seller for all amounts so paid.

9. **Termination; Remedies.** If either Party defaults on its obligations under this Agreement (which may include Buyer's switching to another retail electric supplier or the Utility or Buyer's failure to pay the Utility), the other Party may terminate this Agreement, as applicable. Seller reserves the right to charge Buyer an early termination fee for Buyer's termination after the Rescission Period of Section 4 that has not resulted from Seller's default. Seller may invoice Buyer directly for any early termination fees and payment of any early termination fees shall be due within thirty (30) days of the invoice date. Buyer agrees damages would be difficult to quantify upon a default and agree that this is not a penalty. The early termination fee shall total \$0.00 per Account, provided however, Seller will waive such early termination fee if Buyer moves (either within or outside of the Municipality boundaries), and provides notice to Seller that Buyer is moving prior to termination. Notwithstanding the foregoing, in the event the Municipality terminates the Program Agreement prior to the end of the Term of this Agreement, Seller will waive the early termination fee and return Buyer's Account(s) to ComEd tariffed service on the second meter read following termination. **SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES OR PENALTIES RESULTING FROM THE RETURN OF BUYER'S ACCOUNT(S) TO THE UTILITY'S TARIFFED SERVICE, INCLUDING CLAIMS RELATING TO THE TARIFFED SERVICE PRICE BEING HIGHER THAN THE FIXED RATE HEREIN.**

**10. Limitations. ALL ELECTRICITY SOLD HEREUNDER IS PROVIDED "AS IS" AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT, WHETHER IN AGREEMENT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.**

11. Force Majeure. Except for Buyer's obligation to pay Seller timely, neither Party shall be liable to the other for failure to perform an obligation if the non-performing Party was prevented from performing due to an event beyond their reasonable control, that could not be remedied by the exercise of due diligence and that was not reasonably foreseeable, including without limitation, acts of God, a condition resulting from the curtailment of electricity supply or interruption or curtailment of transmission on the electric transmission and/or distribution system, interruption of Utility service, terrorist acts or wars, and force majeure events of the Utility or independent system operator.

12. Questions, Complaints, and Concerns. Buyer may contact Seller by calling 1-888- , at Seller's website at [www.](http://www.) or by writing to , Attn: Customer Service. For issues concerning this Agreement, Seller will attempt to resolve the matter within five (5) business days after receiving the call or letter. If Buyer is not satisfied with the response, or to obtain consumer education materials, Buyer can contact the Illinois Commerce Commission's Consumer Services Division at 1-800-524-0795 or 1-800-858-9277 for TTY hearing-impaired customers or visit the Illinois Commerce Commission's website at [www.icc.illinois.gov](http://www.icc.illinois.gov). Buyer may also contact the Illinois Attorney General's Office at 1-800-386-5438 (Northern Illinois), 1-800-243-0618 (Central Illinois), or 1-800-243-0607 (Southern Illinois).

13. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard for the conflicts of law provisions thereof. Title, possession, control of the electricity, and risk of loss will pass from Seller to Buyer at the delivery point, which shall be the Utility. Buyer appoints Seller as its agent for the purposes of effectuating delivery, including for receipt of billing and usage data from the Utility. Subject to regulatory approvals and notice from Seller and the terms of the Program Agreement, Seller may assign this Agreement without Buyer's consent. Buyer may assign this Agreement only with Seller's prior written consent. This Agreement (including without limitation the Account identification) shall be considered a Letter of Agency and constitutes the entire agreement between the Parties, superseding all verbal and written understandings. There are no third party beneficiaries to this Agreement and none are intended. This Agreement shall only be amended in writing signed by both Parties or with Notice from Seller to Buyer as described under Section 4 above. Buyer should contact the Utility in the event of an electric emergency at 1-800-Edison-1 (residential) or 1-877-4-ComEd-1 (commercial). Future correspondence may be sent by Seller to Buyer via first class mail and/or electronic mail.

# Public Hearing Memorandum

**TO:** Village President and Board of Trustees  
**FROM:** Julia Cedillo, Village Manager *JC*  
**Date:** May 8, 2012  
**RE:** Electrical Aggregation

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## Background

The Village's Electrical Aggregation Program seeks to aggregate the retail electric loads of eligible customers located within the Village to negotiate the best rates for the supply of electric power. The program has the potential to combine residential accounts and small commercial retail accounts into a buying group that will be attractive to an Alternate Retail Electric Supplier.

In 1997, the State of Illinois implemented a plan to deregulate Commonwealth Edison ("ComEd"). Under this plan, ComEd no longer supplies electricity for its customers but continues to deliver power through its distribution system. Alternatively, power can be purchased through any of the 23 Illinois Commerce Commission approved power suppliers. Illinois Public Act 096-0176, Section 1-92 "Aggregation of electrical load by municipalities and counties" amends the original Illinois electric deregulation legislation. It allows municipalities to transfer their residents' and small commercial retail customer's electric accounts to alternative electric suppliers. Under this scenario, while electrical power is supplied by a company other than ComEd, they still continue to deliver the power to residents. In addition, residents continue to be billed by ComEd and they may contact ComEd with any service disruptions. Municipalities may choose aggregation as a means to secure a lower electrical rate for their residents and small commercial retail customers through a competitive purchasing process. The Village has been using this type of aggregation for purchasing power supply for the Village's pumping station, through participation in the Municipal Energy Collaborative (MEC), since 2007.

## Aggregation Timeline

Listed below are several steps that will be required by the Village, in advancement of a Residential Electrical Aggregation Program.

Item	Date Completed and/or Expected Completion Date
Adopted Resolution to conduct a Referendum	Complete
Referendum question placed on ballot to establish an "opt-out" aggregation program*(see description below). La Grange Park would need to place the referendum question on the Cook County ballot.	March 2012
Requested electrical load data from ComEd	May 2012
First Public Hearing regarding the Village's Plan of Governance (rules governing the bid process)	May 8, 2012

Second Public Hearing regarding the Village's Plan of Governance (rules governing the bid process)	May 14, 2012
Adopted Ordinance authorizing an electricity aggregation program. Approval of Plan of Operation and Governance.	May 22, 2012
Bid Process	June 11-12, 2012
Approval of Resolution to Enter into an Agreement with Supplier Agreement and Adopt Intergovernmental Agreement (If partnering with other communities)	June 12, 2012
Residents Provided Time to Opt-Out	July / August 2012
Estimated Date of New Supplier Cut-over	August / September 2012
ComEd Bill Includes New Supplier	September / October 2012

**Residential Aggregation Program Performance**

The communities that successfully implemented an Aggregation Program in 2011 have seen an annual savings for their residents of approximately 20% (\$175 - \$200 per year) on the average ComEd bill. More recently, residential rates just announced by the Commonwealth Edison for the 12 months starting June 1, 2012 are such that they are increasing from the current rate of 7.73¢/kWh to the annual rate 8.5¢/kWh. This is a 10% increase. According to the Village's consultant, NIMEC, it is likely that these new rates would result in greater savings to residents. In recent days NIMEC programs are achieving savings of approximately 35% for electrical supply.