

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL MEETING**  
**MAY 14, 2013 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Purchase of Electric Utility Service for Revenue Generating Municipal Facilities	✓ Resolution Ordinance Motion Discussion Only	Judy Buttny Finance Director

**SYNOPSIS**

A Resolution has been prepared authorizing the execution of an agreement for purchase of Electric Utility Service effective May 15, 2013 from MC Squared Energy Services LLC for a period of three years.

**STRATEGIC PLAN ALIGNMENT**

The Goals for 2011 to 2018 identified *Steward of Financial and Environmental Sustainability*.

**FISCAL IMPACT**

The new contract should save the Village approximately \$11,000 per year compared to the current price. Current electric rates are .05585 per kWh from the current supplier Champion Energy. The three year rate under the new contract is approximately .04719 but will not be finalized until the date of contract signing.

**RECOMMENDATION**

Approval on the May 14, 2013 consent agenda.

**BACKGROUND**

The Village currently contracts with Champion Energy for electricity supply for its revenue-generating facilities, which are not provided with free electricity under the ComEd franchise agreement. The contract with Champion Energy will expire on May 31, 2013. The Village pays for electricity in the revenue generating facilities, including the parking deck, water pumping stations, train station and rental properties. The Village has been purchasing electricity from other suppliers for the last five years, since it is cheaper to buy electricity from the alternate suppliers than to buy it from ComEd. The Village pays about \$72,000 a year for electricity for these facilities. The new rate will bring the cost of electricity to about \$61,000 per year.

A Request for Proposal was sent out for a Retail Electric Supplier. The Village received responses from MC Squared, Champion Energy and MidAmerica. The following are the costs per kilowatt hour (kWh) for each supplier for three year pricing:

MC Squared	\$0.04719
Champion Energy	\$0.04799
MidAmerica	\$0.04827

The actual rate will not be locked in until the contract is signed. The contract will likely be executed on May 15, 2013. Staff estimates that it should be close to the .04719 quoted on April 1, 2013. This rate will be locked in for a three year contract. A three year contract is recommended to take advantage of current low pricing in the energy market.

**ATTACHMENTS**

Resolution



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF AN  
AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE  
AND MC SQUARED FOR RETAIL ELECTRICITY SUPPLY**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the “Agreement”), between the Village of Downers Grove (“Municipality”) and MC Squared Energy Services, LLC (“Supplier”), for electricity supply, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

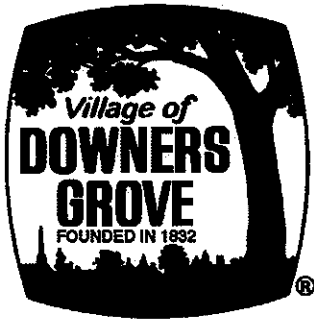
2. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

3. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

4. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:  
Attest: \_\_\_\_\_  
Village Clerk



## REQUEST FOR PROPOSAL (Professional Services)

**Name of Proposing Company:** MC Squared Energy Services LLC

Project Name: RETAIL ELECTRIC SUPPLIER  
Proposal No.: RFP-0-15-2013/tt  
Proposal Due: April 1, 2013, 3:00 p.m.  
Pre-Proposal Conference: None

**Required of Awarded Contractor:**

Certificate of Insurance: Yes

Legal Advertisement Published: March 13, 2013

Date Issued: March 13, 2013

This document consists of 32 pages.

Return **one original and one duplicate copy, and one digital (disk copy)** of proposal in a **sealed envelope** marked with the Proposal Number as noted above to:

THERESA H. TARKA  
PURCHASING ASSISTANT  
VILLAGE OF DOWNERS GROVE  
801 BURLINGTON AVENUE  
DOWNERS GROVE, IL 60515  
PHONE: 630/434-5530  
FAX: 630/434-5571  
[www.downers.us](http://www.downers.us)

Village of Downers Grove

The VILLAGE OF DOWNERS GROVE will receive proposals Monday thru Friday, 8:00 A.M. to 5:00 P.M. at the Village Hall, 801 Burlington Avenue, Downers Grove, IL 60515.

**SPECIFICATIONS MUST BE MET AT THE TIME THE PROPOSAL IS DUE.**

The Village Council reserves the right to accept or reject any and all proposals, to waive technicalities and to accept or reject any item of any proposal.

The documents constituting component parts of this Contract are the following:

- I. REQUEST FOR PROPOSALS
- II. TERMS & CONDITIONS
- III. DETAILED SPECIFICATIONS
- IV. PROPOSER'S RESPONSE TO RFP (Professional Services)
- V. PROPOSAL/CONTRACT FORM

**DO NOT DETACH ANY PORTION OF THIS DOCUMENT. INVALIDATION COULD RESULT.** Proposers MUST submit an one original, and one additional paper copy and one digital (disk copy) of the total proposal. Upon formal award of the proposal this RFP document shall become the Contract, the successful Proposer will receive a copy of the executed Contract.

## **I. REQUEST FOR PROPOSALS**

### **1. GENERAL**

- 1.1 Notice is hereby given that the Village of Downers Grove will receive sealed Proposals up to **April 1, 2013; 3:00 p.m.** .
- 1.2 Proposals must be received at the Village of Downers Grove by the time and date specified. Proposals received after the specified time and date will not be accepted and will be returned unopened to the Proposer.
- 1.3 Proposal forms shall be sent to the Village of Downers Grove, ATTN: **Theresa Tarka**, in a sealed envelope marked "SEALED PROPOSAL". The envelope shall be marked with the name of the project, date, and time set for receipt of Proposals.
- 1.4 All Proposals must be submitted on the forms supplied by the Village and signed by a proper official of the company submitting the Proposal. Telephone, email and fax Proposals will not be accepted.
- 1.5 By submitting this Proposal, the Proposer certifies under penalty of perjury that they have not acted in collusion with any other Proposer or potential Proposer.

### **2. PREPARATION OF PROPOSAL**

- 2.1 It is the responsibility of the Proposer to carefully examine the specifications and proposal documents and to be familiar with all of the requirements, stipulations, provisions, and conditions surrounding the proposed services. **DO NOT SUBMIT A PROPOSED CONTRACT. UPON ACCEPTANCE BY THE VILLAGE, THIS RFP DOCUMENT SHALL BECOME A BINDING CONTRACT.**
- 2.2 No oral or telephone interpretations of specifications shall be binding upon the Village. All requests for interpretations or clarifications shall be made in writing and received by the Village at least five (5) business days prior to the date set for receipt of Proposals. All changes or interpretations of the specifications shall be made by the Village in a written addendum to the Village's proposers of record.
- 2.3 In case of error in the extension of prices in the Proposal, the hourly rate or unit price will govern. In case of discrepancy in the price between the written and numerical amounts, the written amount will govern.
- 2.4 All costs incurred in the preparation, submission, and/or presentation of any Proposal including any Proposer's travel or personal expenses shall be the sole responsibility of the Proposer and will not be reimbursed by the Village.
- 2.5 The Proposer hereby affirms and states that the prices quoted herein constitute the total

cost to the Village for all work involved in the respective items and that this cost also includes all insurance, bonds, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expense, all profits and all other work, services and conditions necessarily involved in the work to be done and materials to be furnished in accordance with the requirements of the Contract Documents considered severally and collectively.

**3. MODIFICATION OR WITHDRAWAL OF PROPOSALS**

3.1 A Proposal that is in the possession of the Village may be altered by a letter bearing the signature or name of the person authorized for submitting a Proposal, provided that it is received prior to the time and date set for the Proposal opening. Telephone, email or verbal alterations of a Proposal will not be accepted.

3.2 A Proposal that is in the possession of the Village may be withdrawn by the Proposer, up to the time set for the Proposal opening, by a letter bearing the signature or name of the person authorized for submitting Proposals. Proposals may not be withdrawn after the Proposal opening and shall remain valid for a period of ninety (90) days from the date set for the Proposal opening, unless otherwise specified.

**4. RESERVED RIGHTS**

4.1 The Village reserves the exclusive right to waive sections, technicalities, irregularities and informalities and to accept or reject any and all Proposals and to disapprove of any and all subcontractors as may be in the best interest of the Village. Time and date requirements for receipt of Proposals will not be waived.

**II. TERMS AND CONDITIONS**

**5. VILLAGE ORDINANCES**

5.1 The successful Proposer will strictly comply with all ordinances of the Village of Downers Grove and laws of the State of Illinois.

**6. USE OF VILLAGE'S NAME**

6.1 The Proposer is specifically denied the right of using in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

**7. INDEMNITY AND HOLD HARMLESS AGREEMENT**

7.1 To the fullest extent permitted by law, the Proposer shall indemnify, keep and save harmless the Village and its agents, officers, and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, which may arise directly or indirectly from any negligence or from the reckless or willful misconduct of the Proposer, its employees, or its subcontractors, and the Proposer shall at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be

rendered against the Village in any such action, the Proposer shall, at its own expense, satisfy and discharge the same. This agreement shall not be construed as requiring the Proposer to indemnify the Village for its own negligence. The Proposer shall indemnify, keep and save harmless the Village only where a loss was caused by the negligent, willful or reckless acts or omissions of the Proposer, its employees, or its subcontractors.

**8. NONDISCRIMINATION**

8.1 Proposer shall, as a party to a public contract:

- (a) Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- (b) By submission of this Proposal, the Proposer certifies that it is an "equal opportunity employer" as defined by Section 2000(e) of Chapter 21, Title 42, U.S. Code Annotated and Executive Orders #11136 and #11375, which are incorporated herein by reference. The Equal Opportunity clause, Section 6.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of any contract awarded on the basis of this Proposal.

8.2 It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap or unfavorable discharge for military service. Proposer shall comply with standards set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 et seq., The Human Rights Act of the State of Illinois, 775 ILCS 5/1-101 et. seq., and The Americans With Disabilities Act, 42 U.S.C. Sec. 12101 et. seq.

**9. SEXUAL HARASSMENT POLICY**

9.1 The Proposer, as a party to a public contract, shall have a written sexual harassment policy that:

- 9.1.1 Notes the illegality of sexual harassment;
- 9.1.2 Sets forth the State law definition of sexual harassment;
- 9.1.3 Describes sexual harassment utilizing examples;
- 9.1.4 Describes the Proposer's internal complaint process including penalties;
- 9.1.5 Describes the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and how to contact these entities; and
- 9.1.6 Describes the protection against retaliation afforded under the Illinois Human Rights Act.

**10. EQUAL EMPLOYMENT OPPORTUNITY**

10.1 In the event of the Proposer's non-compliance with the provisions of this Equal



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Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Proposer may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the Contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Contract, the Proposer agrees as follows:

- 10.1.1 That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental disability unrelated to ability, order of protection status, military status, sexual orientation, sexual identity or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- 10.1.2 That, if it hires additional employees in order to perform this Contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 10.1.3 That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental disability unrelated to ability, order of protection status, military status, sexual orientation, or an unfavorable discharge from military services.
- 10.1.4 That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Proposer's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Proposer in its efforts to comply with such Act and Rules and Regulations, the Proposer will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- 10.1.5 That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.

10.1.6 That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purpose of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.

10.1.7 That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this Contract, the Proposer will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the Proposer will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

## **11. DRUG FREE WORK PLACE**

Proposer, as a party to a public contract, certifies and agrees that it will provide a drug free workplace by:

- 11.1 Publishing a statement: (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the Village's or Proposer's workplace. (2) Specifying the actions that will be taken against employees for violations of such prohibition. (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will: (A) abide by the terms of the statement; and (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- 11.2 Establishing a drug free awareness program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the Village's or Proposer's policy of maintaining a drug free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; (4) the penalties that may be imposed upon employees for drug violations.
- 11.3 Providing a copy of the statement required above to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- 11.4 Notifying the contracting or granting agency within ten (10) days after receiving notice of any criminal drug statute conviction for a violation occurring in the workplace from an employee or otherwise receiving actual notice of such conviction.

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- 11.5 Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted as required by section 5 of the Drug Free Workplace Act.
- 11.6 Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation is required and indicating that a trained referral team is in place.
- 11.7 Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

**12. PATRIOT ACT COMPLIANCE**

12.1 The Proposer represents and warrants to the Village that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Proposer further represents and warrants to the Village that the Proposer and its principals, shareholders, members, partners, or affiliates, as applicable are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Contract on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Proposer hereby agrees to defend, indemnify and hold harmless the Village, and its elected or appointed officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorney’s fees and costs) arising from or related to any breach of the foregoing representations and warranties.

**13. INSURANCE REQUIREMENTS**

13.1 The Proposer or Supplier shall have, maintain and pay for such insurance as will protect against claims for bodily injury or death, or for damage to property, including loss of use, which may arise out of operations by the Proposer or Supplier or by anyone employed by any of them, or by anyone for whose acts any of them may be liable. Such insurance shall not be less than the greater of coverages and limits of liability specified below or any coverages and limits of liability specified in the Contract Documents or coverages and limits required by law unless otherwise agreed to by the Village.

Workers Compensation	\$500,000	Statutory
Employers Liability	\$1,000,000	Each Accident
	\$1,000,000	Disease Policy Limit
	\$1,000,000	Disease Each Employee

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Comprehensive General Liability	\$2,000,000	Each Occurrence
	\$2,000,000	Aggregate
		<i>(Applicable on a Per Project Basis)</i>
Commercial Automobile Liability	\$1,000,000	Each Accident
Professional Errors & Omissions (pursuant to section .9 below)	\$2,000,000	Each Claim
	\$2,000,000	Annual Aggregate
Umbrella Liability	\$ 5,000,000	

- 13.2 Commercial General Liability Insurance required under this paragraph shall be written on an occurrence form and shall include coverage for Products/Completed Operations, Personal Injury with Employment Exclusion (if any) deleted, Blanket XCU and Blanket Contractual Liability insurance applicable to defense and indemnity obligations and other contractual indemnity assumed under the Contract Documents. The limit must be on a "Per Project Basis".
- 13.3 Comprehensive Automobile Liability Insurance required under this paragraph shall include coverage for all owned, hired and non-owned automobiles.
- 13.4 Workers Compensation coverage shall include a waiver of subrogation against the Village.
- 13.5 Comprehensive General Liability, Employers Liability and Commercial Automobile Liability Insurance may be arranged under single policies for full minimum limits required, **or** by a combination of underlying policies with the balance provided by Umbrella and/or Excess Liability policies.
- 13.6 Proposer and Supplier shall have their respective Comprehensive General Liability (including products/completed operations coverage), Employers Liability, Professional Errors & Omission Liability, Commercial Automobile Liability, and Umbrella/Excess Liability policies endorsed to add the "Village of Downers Grove, its officers, officials, employees and volunteers" as "additional insureds" with respect to liability arising out of operations performed; claims for bodily injury or death brought against the Village by any Proposer or Supplier employees, or the employees of Subcontractor's subcontractors of any tier, however caused, related to the performance of operations under the Contract Documents. Such insurance afforded to the Village shall be endorsed to provide that the insurance provided under each policy shall be **Primary and Non-Contributory**.
- 13.7 Proposer and Supplier shall maintain in effect all insurance coverages required by the

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Contract Documents at their sole expense and with insurance carriers licensed to do business in the State of Illinois and having a current A. M. Best rating of no less than A-VIII. In the event that the Proposer or Supplier fails to procure or maintain any insurance required by the Contract Documents, the Village may, at its option, purchase such coverage and deduct the cost thereof from any monies due to the Proposer or Supplier, or withhold funds in an amount sufficient to protect the Village, or terminate this Contract pursuant to its terms.

- 13.8 All insurance policies shall contain a provision that coverages and limits afforded hereunder shall not be canceled, materially changed, non-renewed or restrictive modifications added, without thirty (30) days prior written notice to the Village. Renewal certificates shall be provided to the Village not less than five (5) days prior to the expiration date of any of the required policies. All Certificates of Insurance shall be in a form acceptable to Village and shall provide satisfactory evidence of compliance with all insurance requirements. The Village shall not be obligated to review such certificates or other evidence of insurance, or to advise Proposer or Supplier of any deficiencies in such documents, and receipt thereof shall not relieve the Proposer or Supplier from, nor be deemed a waiver of the right to enforce the terms of the obligations hereunder. The Village shall have the right to examine any policy required and evidenced on the Certificate of Insurance.
- 13.9 Only in the event that the Work under the Contract Documents includes design, consultation, or any other professional services, Proposer and/or Supplier shall procure, maintain, and pay for Professional Errors and Omissions insurance with limits of not less than \$2,000,000 per claim and \$2,000,000 annual aggregate. If such insurance is written on a claim made basis, the retrospective date shall be prior to the start of the Work under the Contract Documents. Proposer and/or Supplier agree to maintain such coverage for three (3) years after final acceptance of the Project by the Village or such longer period as the Contract Documents may require. Renewal policies during this period shall maintain the same retroactive date.
- 13.10 Any deductibles or self-insured retentions shall be the sole responsibility of the Insured. At the option of the Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Village, its officers, officials, employees and volunteers; or the Proposer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 14. CAMPAIGN DISCLOSURE**
- 14.1 Any contractor, proposer, bidder or vendor who responds by submitting a bid or proposal to the Village shall be required to submit with its submission, an executed Campaign Disclosure Certificate, attached hereto.
- 14.2 The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign

contributions made to any member of the Village Council.

- 14.3 Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the bid or proposal release.
- 14.4 By signing the bid or proposal documents, contractor/proposer/bidder/vendor agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

**15. SUBLETTING OF CONTRACT**

- 15.1 No contract awarded by the Village shall be assigned or any part subcontracted without the written consent of the Village Manager. In no case shall such consent relieve the Proposer from its obligation or change the terms of the Contract.

All approved subcontracts shall contain language which incorporates the terms and conditions of this Contract.

**16. TERM OF CONTRACT**

- 16.1 The term of this Contract shall be as set forth in the Detail Specifications set forth in Section III below. This Contract is subject to the Village purchasing policy with regard to any extensions hereof.

**17. TERMINATION OF CONTRACT**

- 17.1 In the event of the Proposer's nonperformance, breach of the terms of the Contract, or for any other reason, and/or that sufficient funds to complete the Contract are not appropriated by the Village, the Contract may be canceled, in whole or in part, upon the Village's written notice to the Proposer. The Village will pay the Proposer's costs actually incurred as of the date of receipt of notice of default. Upon termination, the Proposer will deliver all documents and products of whatever kind, and their reproducible originals related to the project, which have been produced to the date of the notice of termination.

**18. BILLING & PAYMENT PROCEDURES**

- 18.1 Payment will be made upon receipt of an invoice referencing Village purchase order number. Once an invoice and receipt of materials or service have been verified, the invoice will be processed for payment in accordance with the Village payment schedule. The Village will comply with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq., in that any bill approved for payment must be paid or the payment issued to the Proposer within 60 days of receipt of a proper bill or invoice. If payment is not issued to the Proposer within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the

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end of this 60 day period, until final payment is made.

18.2 The Village shall review in a timely manner each bill or invoice after its receipt. If the Village determines that the bill or invoice contains a defect making it unable to process the payment request, the Village shall notify the Proposer requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under 50 ILCS 505/1 et seq. The notice shall identify the defect and any additional information necessary to correct the defect.

18.4 Please send all invoices to the attention of Village of Downers Grove, Accounts Payable, 801 Burlington, Downers Grove, IL 60515.

### **19. RELATIONSHIP BETWEEN THE PROPOSER AND THE VILLAGE**

19.1 The relationship between the Village and the Proposer is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other.

### **20. STANDARD OF CARE**

20.1. Services performed by Proposer under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representations express or implied, and no warranty or guarantee is included or intended in this Contract, or in any report, opinions, and documents or otherwise.

20.2 If the Proposer fails to meet the foregoing standard, Proposer will perform at its own cost, and without reimbursement from the Village, the professional services necessary to correct errors and omissions caused by Proposer's failure to comply with the above standard and reported to Proposer within one (1) year from the completion of Proposer's services for the Project.

20.3 For Professional Service Agreements: Project site visits by Proposer during construction or equipment installation or the furnishing of Project representatives shall not make Proposer responsible for: (i) constructions means, methods, techniques, sequences or procedures; (ii) for construction safety precautions or programs; or (iii) for any construction contactor(s') failure to perform its work in accordance with contract documents.

### **21. GOVERNING LAW**

21.1 This Contract will be governed by and construed in accordance with the laws of the State of Illinois without regard for the conflict of laws provisions. Venue is proper only in the County of DuPage and the Northern District of Illinois.

**22. SUCCESSORS AND ASSIGNS**

22.1 The terms of this Contract will be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that neither party will assign this Contract in whole or in part without the prior written approval of the other. The Proposer will provide a list of key staff, titles, responsibilities, and contact information to include all expected subcontractors.

**23. WAIVER OF CONTRACT BREACH**

23.1 The waiver by one party of any breach of this Contract or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof will be limited to the particular instance and will not operate or be deemed to waive any future breaches of this Contract and will not be construed to be a waiver of any provision except for the particular instance.

**24. AMENDMENT**

24.1 This Contract will not be subject to amendment unless made in writing and signed by all parties.

**25. NOT TO EXCEED CONTRACT**

25.1 The contract price is a "not-to-exceed" cost. At any time additional work is necessary or requested, and the not-to-exceed price is increased thereby, any change, addition or price increase must be agreed to in writing by all parties who have executed the Contract.

**26. SEVERABILITY OF INVALID PROVISIONS**

26.1 If any provisions of this Contract are held to contravene or be invalid under the laws of any state, country or jurisdiction, contravention will not invalidate the entire Contract, but it will be construed as if not containing the invalid provision and the rights or obligations of the parties will be construed and enforced accordingly.

**27. NOTICE**

27.1 Any notice will be in writing and will be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party at the party's place of business. Notices shall be addressed to the Village as follows:

**Village Manager  
Village of Downers Grove  
801 Burlington Ave.  
Downers Grove, IL 60515**

And to the Proposer as designated in the Contract Form.

**28. COOPERATION WITH FOIA COMPLIANCE**

28.1 Contractor acknowledges that the Freedom of Information Act may apply to public records in possession of the Contractor or a subcontractor. Contractor and all of its



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subcontractors shall cooperate with the Village in its efforts to comply with the Freedom of Information Act. (5 ILCS 140/1 et.seq.)

### **III. DETAIL SPECIFICATIONS**

#### **RETAIL ELECTRIC SUPPLIER**

**The scope of services required of the successful Vendor is defined in the following:**

1.1 The Village of Downers Grove is seeking opportunities to reduce electric supply costs at certain facilities within the ComEd service territory. Combined, approximately 25 ComEd accounts are involved in this request. Details regarding the associated accounts are available in Attachment A to this document. The Village seeks to enter into an agreement with a single Vendor for all accounts that result in cost savings and price stability, while retaining a high level of power supply reliability and customer service. The selected Vendor will be required to provide, or arrange for the provision of, power and energy onto the ComEd distribution delivery system, and arrangement with ComEd for delivery to the Village's accounts. Electric power and energy service to accounts included in the final contract must be firm and uninterruptible, as is available under our current agreements.

#### **1.2 Goals and Objectives**

The Village goal is to establish a contract with one qualified Retail Electric Supplier with a proven track record of providing retail electricity service in Illinois, either directly or through a broker. Requirements same as in Section 1.1 above.

#### **1.3. Services Required**

1.3.1 **Electricity Supplies.** Vendor will supply the firm power requirements to each of the accounts for which it is ultimately contracted to serve. Vendor must be certified by the Illinois Commerce Commission (ICC) as an Alternative Retail Electric Supplier (ARES) or as an Illinois Public Utility (collectively "Retail Electric Suppliers" or "RES").

Bidders must demonstrate their ability to provide electricity supplies sufficient to meet Village requirements by submitting proof of current registration with the ICC and applicable regional transmission organizations (RTO): PJM Interconnection (PJM)

1.3.2 **Transmission Services.** The Vendor will be responsible for acquiring and paying all necessary transmission services to the Point(s) of Delivery including all electricity commodity costs, RTO charges, Congestion Charges, Distribution and Transmission Losses, and Capacity Charges.

**Billing Services.** Invoices from the local electric utility for distribution services will be issued by the local electric utility to Village facilities. The Vendor will be responsible for providing electricity billing information to the Village.

The Vendor shall be responsible for examining and assuring the accuracy of each local electric utility's monthly invoice(s) for the deliveries of electricity. In determining accuracy, the Vendor shall reconcile the volumes of electricity delivered by each Local Electric Utility with the Vendor's records regarding the volumes of electricity sold under the contract and shall determine and resolve any discrepancies which may exist as soon as is practicable.

In the event the actual billing quantity of electricity delivered to the facilities during the preceding month is not available by the contractual billing date, an estimated billing quantity shall be used which is based upon the estimated quantity of electricity delivered to the facility. Such estimates will then be corrected, if necessary, on the next succeeding billing quantity data delivery, or as soon thereafter as the actual quantity becomes available.

Bidders must demonstrate their ability to provide accurate aggregated monthly invoices based on a single unit price by submitting a copy of an actual monthly invoice for a current customer that documents a single monthly price applied across multiple separate accounts. Additionally, Bidders must demonstrate an ability to provide billing information via an online format.

**1.4 Delivery Specifications (Including Schedules and Guarantees)**

**1.4.1 Quality and Measurement.** Vendor must warrant that the Electricity sold and delivered to the Village shall be of the specifications required by the RTO and Local Electric Utility.

**All measurement standards shall be in accordance with those of the RTO and Local Electric Utility. Either party may challenge the accuracy of any meter or measuring equipment used to measure Vendor's electricity deliveries under this Contract. All testing of, and corrections to, such meters and measuring equipment shall be conducted in accordance with the applicable standards.**

**1.4.2 Title.** Vendor warrants to the Village that Vendor has good marketable title to all electricity sold hereunder and that said electricity is free from all liens

and adverse claims. Title to and risk of loss for the electricity sold hereunder shall pass to the Village upon delivery at such Point(s) of Delivery.

**1.5. Where Supplies Are To Be Delivered**

Delivery of all electricity supplied by Vendor to the Village shall be made at appropriate node locations to effect delivery to the Point(s) of Delivery identified in Attachment A of this document.

**1.6 Other Specifications**

**1.6.1 Creditworthiness.** Bidders must demonstrate their creditworthiness to the Village by providing the following:

**1.6.1.1 Acceptable Credit Rating:** Bidders must demonstrate creditworthiness by submitting their most recent copy of an audited annual report that identifies the company's long term credit rating. Brokers shall submit similar data for the supplier they represent. The following table will be used to cross reference credit ratings from the various credit rating agencies:

AGENCY		
Moody's	Standard and Poor's	Fitch
Aaa	AAA	AAA
Aa	AA	AA
A	A	A
Baa	BBB	BBB

**1.6.2 Taxes and Penalties.** Vendor shall pay or cause to be paid taxes lawfully levied against Vendor prior to the delivery of electricity by Vendor to the Village hereunder and shall fully indemnify the Village from and against all claims with respect thereto. Unless specified otherwise, the price the Village shall pay Vendor for electricity sold and delivered shall not include any applicable state or local electricity revenue, utility, sales or use tax which may be assessed as a result of sales of electricity hereunder.

The Vendor shall pay all penalties and fines and all federal, state and local sales, use and public utility taxes associated with or arising out of the sales contemplated by the contract. The Village will pay to the Vendor the amount of any tax owing documentation from the Vendor that the Vendor has paid such tax amount to the applicable government authority and that the Vendor determined in good faith that such tax was required to be paid (notwithstanding the right of the Vendor to challenge the position of the applicable government authority in court). If the Village pays the amount of such tax or any sales related tax under protest, any amount payable due

to shortages/excesses will be the sole responsibility of the Vendor.

Vendor agrees to provide reasonable assistance to the Village in applying for a refund of any tax, including filing in the name of the Vendor, if required, with the applicable government authority, at the Village's cost and expense, along with any request for refund or protest of such tax or any other documentation deemed reasonably necessary by the Village for the refund of such tax. In no event will the Village be liable for any penalties or premiums on any tax amounts the Vendor fails to pay.

Any penalties assessed by a Transmission provider or Local Electric Utility for electricity deliverable under this Contract shall be promptly paid by Vendor, including penalties incurred by individual suppliers as a result of errors relating to inaccurate data provided to Vendors in such instances where errors could normally be avoided. The Vendor will be responsible for all penalties, fees and charges incurred by the Village resulting from the misallocation of supply volumes.

The Village's State of Illinois tax exemption number and Federal tax exemption certificate will be available to the successful Bidder upon request.

- 1.6.3 **Personnel/Equipment Requirements.** Vendor must assign and maintain a staff of competent personnel who are fully equipped, available as needed, and qualified to perform the services required by this Contract. Vendor must designate a contact person who shall have primary responsibility for Vendor's responsibilities to the Village.

Bidders or other agents must demonstrate their ability to provide sufficient levels of service by submitting a detailed plan of service delivery that details the experience of the staff assigned to manage the Village contract, and the processes that will ensure prompt responses to Village program requirements.

1.6.4 **Contract Monitoring**

1.6.4.1 Vendors are responsible for the faithful performance of the contract and shall have internal monitoring procedures and processes to ensure compliance.

1.6.4.2 The Village reserves the right to monitor and track Vendor's performance over the course of the contract including any warranty term. The information gathered may be used in administration of the contract including payment, and may be used when evaluating the vendor in future procurements.

1.7. **Term of Contract**

The Contract will begin upon execution of final contract documents with electricity delivery services to commence for each account after the final billing period in May 2013 to continue through the last scheduled reading before June 2016 with respect to the delivery of power. The Village reserves the right to direct the selected Vendor to secure fixed priced blocks of power prior to the commencement of delivery service to the contracted accounts. We anticipate that this process will be completed and a contract executed by no later than May 10, 2013. The Village also wishes to have the opportunity to blend and extend should prices fluctuate to the benefit of the Village. The successful Vendor shall offer this service.

2. **SPECIFIC INFORMATION ABOUT THIS RFP**

2.1 **RFP Contact:** The RFP Contact, identified below, is the sole point of contact regarding the RFP from the date of issuance until selection of the successful Vendor.

*Name, RFP Contact:* Theresa Tarka  
*Title:* Purchasing Department  
*Street Address:* 801 Burlington Avenue  
Downers Grove, IL. 60515  
*Phone:* (630) 434-5530

2.2 **Questions:** Please direct all questions to the RFP Contact.

2.3 **Deadline for Submitting Fixed Price Bids - April 3, 2013 2:00 p.m.**

2.4 **Opening Date and Time of Fixed Price Bids - April 3, 2013 2:00 p.m.**

2.5 **Anticipated Announcement of Successful Vendor - April 10, 2013**

2.6 **Number of Copies:** One original, one duplicate copy, and one digital (disk) copy

2.7 **Opening:** The Village will open all Fixed Price Electricity Bids that are submitted in a proper and timely manner, and will record the names and other information specified by law. All offers become the property of the Village and will not be returned except in the case of a late submission. Offers will be opened at 801 Burlington Avenue, Downers Grove, IL. 60515

2.8 **Proposal Firm Time:**

**45 Days from Opening.** Proposals for Vendor margin on commodity and transmission related portions of the pricing proposal are to remain firm for a period of 45 days.

### 3. **INSTRUCTIONS FOR PREPARING AND SUBMITTING PROPOSALS**

#### 3.1 **General Instructions:**

3.1.1 These instructions prescribe the format and content of the Proposal. They are designed to facilitate a fair and uniform review process. Failure to adhere to this format will affect our evaluation and may result in disqualification of the Proposal.

3.1.2 The Village will conduct the following analysis in selecting a Vendor:

3.1.2.1 **Technical Evaluation.** The Village will assign a pass/fail grade for vendors based on the following criteria:

- a. Standard Contract Terms and Conditions.
- b. Company Experience.
- c. Company Credit Rating.

3.1.2.2 **Fixed Price Bid.** The Village will review the fixed-price bid for electricity from the pool of vendors that receive a "Pass" score on the Technical Evaluation. The lowest responsive bidder for the fixed-price bid will be awarded a contract with the Village based on the Standard Terms and Conditions included in the Vendor's standard supply contract.

3.1.3 If the Vendor designates any information in its Proposal as confidential, the Vendor must also submit one (1) copy of the Proposal from which confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Proposal as possible.

3.1.4 Proposals must not contain promotional or display materials.

3.1.5 Attachments must be referenced in the Proposal.

3.2 **Technical Proposal:** The following documents and responses will be included in the Technical Proposal **and tabbed as such in the order given below:**

3.2.1 **Transmittal Letter:** An individual, or agent authorized to legally bind the Vendor must sign the transmittal letter. The person who signs the transmittal letter will be considered the contact person for all matters pertaining to the Proposal unless the Vendor designates another person in writing. The letter must include the Vendor's mailing address, e-mail address, fax number and telephone number.

Any request for confidential treatment of information must be included in

the transmittal letter in addition to the specific statutory basis supporting the request, an explanation of why disclosure of the information is not in the best interest of the public, and the specific basis under Section 7 of the Illinois Freedom of Information Act (5 ILCS 140/7) for the exemption from disclosure of such information. The transmittal letter must also contain the name, address and telephone number of the individual authorized to respond to the Village about the confidential nature of the information.

- 3.2.2 **Table of Contents:** The Vendor must include a table of contents in its Proposal. Proposals must be page numbered sequentially from front to back.
- 3.2.3 **Executive Summary:** The Vendor must prepare an Executive Summary and overview of the services it is offering including all of the following information:
  - 3.2.3.1 Statements that demonstrate that the Vendor understands the services as specified in the RFP.
  - 3.2.3.2 An overview of the Vendor's plans for providing reliable power and energy to the Village facilities in a manner that minimizes the Village's exposure to uncertainty in prices and comports with the consolidation aspects and billing procedures utilized by the Village.
  - 3.2.3.3 A demonstration of the Vendor's knowledge of the Illinois retail electric market, including the provisions contained within the tariffs of the distribution and transmission providers as well as the regulatory environment and other elements that can affect the supplier's capability to perform under the agreement.
- 3.2.4 **Technical Experience:** The Vendor must provide the following information regarding its experience:
  - 3.2.4.1 Number of years experience with providing types of services specified in the RFP.
  - 3.2.4.2 Describe the level of technical experience in providing the types of services specified in the RFP.
  - 3.2.4.3 List all services and other relevant experience similar to those specified in the RFP.
  - 3.2.4.4 Provide at least three references of multi-site, multi-account, municipal clients that the Vendor has served for at least the last twelve months.



3.2.4.5 Financial Capacity Information: Submit the most recent audited end of year financial statement. Vendor may also be required to provide additional financial information upon request.

**3.3 Fixed Price Proposal:**

The Village is requesting a Fixed Price Proposal from Vendors. The Village will request the fixed price proposal to be submitted by **2:00 pm on Wednesday, April 3, 2013** to the RFP Contact noted in section 2.1 above. **Bidders must commit to holding fixed price proposal offerings for a period of twenty-four (24) hours.**

The Village will open the Fixed Price Proposals at **2:00 pm on Wednesday, April 3, 2013**. The lowest qualified price proposal will be certified, and the City Council will approve a supply contract with that Vendor.

Detail pricing requirements with at least the following categories of information:

3.3.1 **Fixed Unit Price:** The Vendor will clearly identify the fixed unit price for the full electricity requirements of all accounts identified in Attachment A of this document for the contract period starting with the billing period after **May 31, 2013**.

The unit pricing shall be for a period of three (3) years, shall be presented in \$/kWh, and shall include the following costs: **“All-Inclusive” Pricing includes:**

- **The 2016/2017 PLC and Capacity values have not been released by ComEd. Until these values are known, mc2 can only price out to May, 2016 (35 month term).**
  - a. Energy Commodity Charges
  - b. PJM ISO Fees
  - c. Congestion Charges
  - d. Distribution and Transmission Losses
  - e. Capacity Charges
  - f. Vendor Margin
  - g. Transmission
  - h. Ancillary Services
  - i. RFP Charges Included? Yes or No

Please also provide pricing for a one(1) or two (2) year contract. **Attached to the back of the response.**

3.3.2 **Prompt Payment Discounts:**   N/A  % discount for payment within   N/A   days of delivery.  
**Do you accept ACH Payments:**   Yes  

3.4 **Organization And Authorization** Companies submitting bids must be properly organized under law and duly authorized to do business in the State of Illinois.

Village of Downers Grove

**ATTACHMENT A**  
**VILLAGE OF DOWNERS GROVE**

**Account/ Meter  
Info**

<b>Account</b>	<b>Meter</b>	<b>Address</b>	<b>City</b>	<b>State</b>
2379165118	094436003	1037 Summitt	Downers Grove	IL
0249158003	141237388	1037 Summitt Tornado Siren 1134 Gilbert Ave Rear, Commuter Pk Lot	Downers Grove	IL
3244105050	141598913	Lot	Downers Grove	IL
1365059017	141266547	1202 75th St	Downers Grove	IL
0063130094	145030593	2101 75th St	Downers Grove	IL
6770399003	999910433	2304 Maple Ave Unit R	Downers Grove	IL
0715060138	141301488	237 Ogden, SE Corner Florence	Downers Grove	IL
2739126064	141238960	3501 E Finley	Downers Grove	IL
8361372007	117904236	3701 Highland Ave	Downers Grove	IL
1731125046	140384910	4409 Dowens Dr	Downers Grove	IL
0384014000	115185455	5001 Main St	Downers Grove	IL
6933565001	141676477	5099 Fairview Ave	Downers Grove	IL
	141237004	"	Downers Grove	IL
6933538013	094965086	5099 Fairview Ave, Pltfm	Downers Grove	IL
7104203024	141543651	5117 Main St	Downers Grove	IL
	140253872	"	Downers Grove	IL
7104205046	141543649	5117 Main St 02 (Steps on Main)	Downers Grove	IL
6936554037	140291122	5117 Main St Unit B	Downers Grove	IL
0351143087	140384934	5217 Katherine	Downers Grove	IL
0399047048	141391061	5322 Park Ave	Downers Grove	IL
1537047029	141543760	6705 Main St, Water Tower	Downers Grove	IL
1569015006	078981783	7100 Woodward	Downers Grove	IL
0237084061	094436132	O E 55th St & Belmont Rd Wtr Twr	Downers Grove	IL
1683140106	140384909	O E Finley, 1S Opus Brk Bd/Wttwr	Downers Grove	IL
3003102040	141238369	O E Main St, Oscurtiss Parkgdeck	Downers Grove	IL
	141379146	"		
0523134063	141503633	Pump 5325 Brookbank Rd	Downers Grove	IL
6849101039	140015416	Collection Box 5000 Belmont	Downers Grove	IL

**Attachment B**

Village of Downers Grove

**Vendor Name:** MC Squared Energy Services LLC

The above identified Vendor submits the following fixed price proposal to the Village of Downers Grove in response to a Request for Proposals for Electric Services for physical facility accounts.

The fixed price cited below includes the following cost components for a period commencing [is there supposed to be more wording (dates) after this?]:

- a. Energy commodity Charges
- b. PJM Charges
- c. Congestion Charges
- d. Distribution and Transmission Losses
- e. Capacity Charges
- f. Vendor Margin
- g. Transmission
- h. Ancillary Services

The fixed price proposed is:

\$ 0.04382 /kWh June, 2013 meter read to June, 2014 meter read

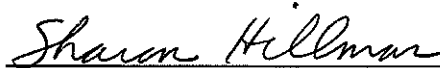
\$ 0.04613 /kWh June, 2013 meter read to June, 2015 meter read

\$ 0.04719 /kWh June, 2013 meter read to May, 2016 meter read

A discount equal to N/A% will be applied for payments made within N/A days of delivery.

The above fixed price offer is tendered on the authority of the undersigned, and will be considered as available to the Village of Downers Grove for a period of twenty-four (24) hours starting at 2:00pm on April 3, 2013 and extending to 2:00 pm on April 4, 2013.

Authorizing Signature:



Date:

April 1, 2013

Printed Name:

Sharon Hillman

Title:

EVP Business Development and Regulatory Affairs

**IV. PROPOSER'S RESPONSE TO RFP (Professional Services)**

**V. PROPOSAL/CONTRACT FORM**

**\*\*\*THIS PROPOSAL, WHEN ACCEPTED AND SIGNED BY AN AUTHORIZED SIGNATORY OF THE VILLAGE OF DOWNERS GROVE, SHALL BECOME A CONTRACT BINDING UPON BOTH PARTIES.**

**Entire Block Must Be Completed When A Submitted Proposal Is To Be Considered For Award**

<b>PROPOSER:</b>	
MC Squared Energy Services LLC Company Name	Date: April 1, 2013
Two North Riverside Plaza, Suite 1350 Street Address of Company	dmcguire@mc2energyservices.com Email Address
Chicago, IL 60606 City, State, ZIP	Daniel McGuire Contact Name (Print)
312-854-1993 Business Phone	877-622-7697 13-Hour Telephone
877-281-1279 Fax	<i>Sharon Hillman</i> Signature of Officer, Partner or Sole Proprietor
	Sharon Hillman, EVP Print Name & Title
ATTEST: If a Corporation	
_____ Signature of Corporation Secretary	

**VILLAGE OF DOWNERS GROVE:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Signature of Village Clerk

\_\_\_\_\_  
Date

In compliance with the specifications, the above-signed offers and agrees, if this Proposal is accepted within 90 calendar days from the date of opening, to furnish any or all of the services upon which prices are quoted, at the price set opposite each item, delivered at the designated point within the time specified above.



Village of Downers Grove

**VENDOR W-9 REQUEST FORM**

The law requires that we maintain accurate taxpayer identification numbers for all individuals and partnerships to whom we make payments, because we are required to report to the I.R.S. all payments of \$600 or more annually. We also follow the I.R.S. recommendation that this information be maintained for all payees including corporations.

Please complete the following substitute W-9 letter to assist us in meeting our I.R.S. reporting requirements. The information below will be used to determine whether we are required to send you a Form 1099. Please respond as soon as possible, as failure to do so will delay our payments.

**BUSINESS (PLEASE PRINT OR TYPE):**

NAME: MC Squared Energy Services LLC

ADDRESS: Two North Riverside Plaza, Suite 1350

CITY: Chicago

STATE: Illinois

ZIP: 60606

PHONE: 877-622-7697 FAX: 877-281-1279

TAX ID #(TIN): 26-3615852

(If you are supplying a social security number, please give your full name.)

**REMIT TO ADDRESS (IF DIFFERENT FROM ABOVE):**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

**TYPE OF ENTITY (CIRCLE ONE):**

- |                      |  |
|----------------------|--|
| Individual           | Limited Liability Company - Individual/Sole Proprietor |
| Sole Proprietor      | Limited Liability Company-Partnership                  |
| Partnership          | <u>Limited Liability Company-Corporation</u>           |
| Medical Corporation  |  |
| Charitable/Nonprofit | Government Agency                                      |

SIGNATURE: Shawn Hillman

DATE: 4/1/13

**PROPOSER'S CERTIFICATION (page 1 of 3)**

With regard to Village of Downers Grove Electric Supply RFP, Proposer MC Squared Energy Services LLC hereby certifies the following:

1. Proposer is not barred from bidding this Contract as a result of violations of Section 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33E-4 (Bid-Rotating);
2. Proposer certifies that it has a written sexual harassment policy in place and is in full compliance with 775 ILCS 5/2-105(A)(4);
3. Proposer certifies that it is in full compliance with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 C. F.R. Parts 40 and 382 and that all employee drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.
4. Proposer further certifies that it is not delinquent in the payment of any tax administered by the Department of Revenue, or that Proposer is contesting its liability for the tax delinquency or the amount of a tax delinquency in accordance with the procedures established by the appropriate Revenue Act. Proposer further certifies that if it owes any tax payment(s) to the Department of Revenue, Proposer has entered into an agreement with the Department of Revenue for the payment of all such taxes that are due, and Proposer is in compliance with the agreement.

BY:  Daniel McGuire   
Proposer's Authorized Agent

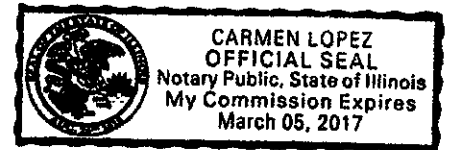
2	6	-	3	6	1	5	8	5	2
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**FEDERAL TAXPAYER IDENTIFICATION NUMBER**

OR \_\_\_\_\_  
Social Security Number

Subscribed and sworn to before me  
this  1<sup>st</sup>  day of  April , 2013.

Carmen Lopez   
Notary Public



**PROPOSER'S CERTIFICATION (page 2 of 3)**

Village of Downers Grove

(Fill Out Applicable Paragraph Below)

**(a) Corporation**

The Proposer is a corporation organized and existing under the laws of the State of \_\_\_\_\_, which operates under the Legal name of \_\_\_\_\_, and the full names of its Officers are as follows:

President: \_\_\_\_\_

Secretary: \_\_\_\_\_

Treasurer: \_\_\_\_\_

and it does have a corporate seal. (In the event that this Proposal is executed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization by the Corporation which permits the person to execute the offer for the corporation.)

**(b) Partnership**

Signatures and Addresses of All Members of Partnership:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The partnership does business under the legal name of: \_\_\_\_\_

which name is registered with the office of \_\_\_\_\_ in the State of \_\_\_\_\_

**(c) Sole Proprietor**

The Proposer is a Sole Proprietor whose full name is: \_\_\_\_\_

and if operating under a trade name, said trade name is: \_\_\_\_\_

which name is registered with the office of \_\_\_\_\_ in the State of \_\_\_\_\_

5. Are you willing to comply with the Village's preceding insurance requirements within 13 days of the award of the contract? Yes

Insurer's Name Self Insured - Miami Valley Insurance Company

Agent No Agent

Street Address 1065 Woodman Dr, Dayton, OH, 45432

**PROPOSER'S CERTIFICATION (page 3 of 3)**



Village of Downers Grove

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

**I/We affirm that the above certifications are true and accurate and that I/we have read and understand them.**

Print Name of Company MC Squared Energy Services LLC

Print Name and Title of Authorizing Signature: Sharon Hillman, EVP

Signature: Sharon Hillman

Date: April 1, 2013

## **MC SQUARED INSURANCE PROGRAM**

DPL, Inc. ("DPL"), the parent of MC Squared, maintains a comprehensive insurance program to protect its financial assets and those of its subsidiaries from unpredictable loss. A department within the Company is dedicated to the design and administration of the program, procurement of appropriate coverage and handling of claims.

DPL self-insures most risks up to dollar amounts within its financial capabilities and risk tolerance. It insures higher amounts of risk through both its subsidiary, Miami Valley Insurance Company ("MVIC"), and commercial insurers.

MVIC is an affiliate of MC Squared; it is wholly owned by MC Squared's parent company, DPL Inc. MVIC is incorporated in the State of Vermont and is regulated by the Vermont Department of Banking, Securities, Insurance and Health Care Administration ("Vermont"). As such, it operates as an independent insurer of DPL Inc. and all of its subsidiaries, including MC Squared. MVIC contracts with an independent actuarial firm, which determines MVIC's premiums for various lines of insurance coverage, as well as the required MVIC reserves. MVIC's financial records are audited annually by an independent accounting firm and filed with Vermont. In addition, the Vermont Department conducts a comprehensive audit of MVIC every three years to assure it is maintaining required records, operating appropriately and in compliance with all requirements of a captive insurance company under Vermont regulations.

**Suspension or Debarment Certificate**

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement for goods or services equal to or in excess of \$100,000.00. Contractors receiving individual awards for \$100,000.00 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred.

By submitting this offer and signing this certificate, the Proposer certifies to the best of its knowledge and belief, that the company and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal, state or local governmental entity, department or agency;
2. Have not within a three-year period preceding this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, or convicted of or had a civil judgment against them for a violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal/contract had one or more public transactions (Federal, State or local) terminated for cause or default.

**If the Proposer is unable to certify to any of the statements in this certification, Proposer shall attach an explanation to this certification.**

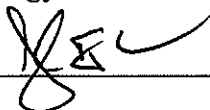
Company Name MC Squared Energy Services LLC

Address: Two North Riverside Plaza, Suite 1350 City: Chicago Zip Code: 60606

Telephone: ( 312 ) 854-1993 Fax Number: ( 877 ) 281-1279

E-mail Address: johnclark@mc2energyservices.com

Authorized Company Signature: \_\_\_\_\_



(Print )Name: John Clark Title of Official: CFO

Date: April 1, 2013

**Campaign Disclosure Certificate**

Village of Downers Grove

Any contractor, proposer, bidder or vendor who responds by submitting a bid or proposal to the Village of Downers Grove shall be required to submit with its bid submission, an executed Campaign Disclosure Certificate.

The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the Village Council.

Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the bid or proposal release.

By signing the bid or proposal documents, contractor/proposer/bidder/vendor agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

Under penalty of perjury, I declare:

Proposer/vendor has not contributed to any elected Village position within the last five (5) years.

Sharon Hillman  
Signature

Sharon Hillman  
Print Name

Proposer/vendor has contributed a campaign contribution to a current member of the Village Council within the last five (5) years.

Print the following information:

Name of Contributor: \_\_\_\_\_  
(company or individual)

To whom contribution was made: \_\_\_\_\_

Year contribution made: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name



where energy comes from

### Confirmation

MC Squared Energy Services, LLC  
2 North Riverside Plaza, Suite 1350  
Chicago, IL 60606

Offer Date 05/06/13

Contract Number 451246

Offer Expiration 05/07/13

#### Contract Information

Customer Name Village of Downers Grove

Price for Service provided by MC2 reflects only the components identified below\*

Product (Service) Fixed Price Classic

Initial Term\*\*

Contract Start 06/01/13

Contract End 06/30/16

Initial Billing Option Dual Billed

Payment Terms 60 days

- Electric Energy
- RTO Transmission Congestion
- RTO Transmission Obligation
- RTO Ancillary Services and Administrative Fees
- RTO Transmission Losses
- Renewable and Alternative Energy Requirements
- Utility Distribution Line Loss
- Other
- RTO Capacity Obligation

\* mc2 shall charge Customer directly for all other products, service components and taxes associated with the Included Products required by mc2 to serve Customer's full service electric generation supply

\*\* Service under this Confirmation will commence and conclude with the Customer's monthly meter reading as scheduled by the Host Utility.

#### Remarks

#### Participating Account Information

ComEd Account Number	Service Address	Contract Capacity PLC	Contract Trans NSPL	Peak KW	Contract Price \$/kWh	Meter Read Cycle	Projected Cycle Start	Projected Cycle End
0063130094	2101 75th St, Downers Grove , IL, 60515	0.074	0.256	13	0.04719	14	06/19/13	06/20/16
0237084061	O E 55th St & Belmont Rd Wtr Twr, Downers Grove , IL, 60515	0.193	0.197	8	0.04719	19	06/26/13	06/27/16
0249158003	1037 Summit Tornado Siren, Downers Grove , IL, 60515	0.023	0.025	2	0.04719	18	06/25/13	06/24/16
0351143087	5217 Katherine, Downers Grove , IL, 60515	0.160	0.130	1	0.04719	14	06/19/13	06/20/16
0384014000	5001 Main St, Downers Grove , IL, 60515	30.944	31.426	29	0.04719	18	06/25/13	06/24/16
0399047048	5322 Park Ave, Downers Grove , IL, 60515	0.057	0.064	2	0.04719	18	06/25/13	06/24/16
0523134063	Pump 5325 Brookbank Rd, Downers Grove , IL, 60515	0.028	0.030	0	0.04719	18	06/25/13	06/24/16
0715060138	237 Ogden, SE Corner Florence, Downers Grove , IL, 60515	0.037	0.040	0	0.04719	17	06/24/13	06/23/16
1365059017	1202 75th St, Downers Grove , IL, 60515	0.633	0.860	9	0.04719	3	06/04/13	06/03/16
1537047029	6705 Main St, Water Tower, Downers Grove , IL, 60515	0.421	0.380	5	0.04719	4	06/05/13	06/06/16
1569015006	7100 Woodward , Downers Grove , IL, 60515	0.000	0.000	76	0.04719	3	06/04/13	06/03/16
1683140106	O E Finley, 1S Opus Brk Bd/Wttr, Downers Grove , IL, 60515	0.004	0.004	72	0.04719	14	06/19/13	06/20/16
1731125046	4409 Dowers Dr, Downers Grove , IL, 60515	0.313	0.320	60	0.04719	18	06/25/13	06/24/16
2379165118	1037 Summit, Downers Grove , IL, 60515	0.660	0.883	6	0.04719	14	06/19/13	06/20/16
2739126064	3501 E Finley , Downers Grove , IL, 60515	1.128	0.772	7	0.04719	17	06/24/13	06/23/16
3003102040	O E Main St, Oscurtiss Parkgdeck, Downers Grove , IL, 60515	26.069	26.883	120	0.04719	18	06/25/13	06/24/16



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MC Squared Energy Services, LLC  
2 North Riverside Plaza, Suite 1350  
Chicago, IL 60606

Offer Date 05/06/13

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3244105050	1134 Gilbert Ave Rear, Downers Grove , IL, 60515	0.000	0.000	0	0.04719	18	06/25/13	06/24/16
6770399003	2304 Maple Ave Unit R, Downers Grove , IL, 60515	0.394	0.400	0	0.04719	19	06/26/13	06/27/16
6849101039	Collection Box 5000 Belmont, Downers Grove , IL, 60515	0.234	0.239	2	0.04719	19	06/26/13	06/27/16
6933538013	5099 Fairview Ave, Pltfm, Downers Grove , IL, 60515	2.768	3.072	5	0.04719	17	06/24/13	06/23/16
6933565001	5099 Fairview Ave, Downers Grove , IL, 60515	3.917	3.987	4	0.04719	17	06/24/13	06/23/16
6936554037	5117 Main St Unit B, Downers Grove , IL, 60515	1.892	1.761	4	0.04719	18	06/25/13	06/24/16
7104203024	5117 Main St, Downers Grove , IL, 60515	13.381	13.110	15	0.04719	18	06/25/13	06/24/16
7104205046	5117 Main St 02 (Steps on Main), Downers Grove , IL, 60515	1.044	1.120	1	0.04719	18	06/25/13	06/24/16
8361372007	3701 Highland Ave, Downers Grove , IL, 60515	1.403	1.676	5	0.04719	17	06/24/13	06/23/16
<b>Total:</b>		<b>85.776</b>	<b>87.634</b>	<b>445</b>				



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MC Squared Energy Services, LLC  
2 North Riverside Plaza, Suite 1350  
Chicago, IL 60606

Offer Date 05/06/13  
Offer Expiration 05/07/13

Contract Number 451246

#### Projected Contract Volumes by Calendar Month

Delivery Month	Total KWH	Delivery Month	Total KWH	Delivery Month	Total KWH	Delivery Month	Total KWH	Delivery Month	Total KWH
06/13	12,562	08/14	52,536	06/15	52,636	08/16	38,748		
07/13	53,616	07/14	53,616	07/15	53,616				
08/13	49,109	08/14	49,109	08/15	49,109				
09/13	46,794	09/14	46,794	09/15	46,794				
10/13	64,546	10/14	64,546	10/15	64,546				
11/13	95,785	11/14	95,785	11/15	95,785				
12/13	116,672	12/14	116,672	12/15	116,672				
01/14	126,514	01/15	126,514	01/16	126,514				
02/14	115,969	02/15	115,969	02/16	115,969				
03/14	109,353	03/15	109,353	03/16	109,353				
04/14	60,224	04/15	60,224	04/16	60,224				
05/14	54,610	05/15	54,610	05/16	54,610				

Total  
Projected Kwh 2,835,946

#### Customer Notice Information

Attention: \_\_\_\_\_  
 Address 1: \_\_\_\_\_  
 Address 2: \_\_\_\_\_  
 City/State/Zip: Downers Grove, IL 60515  
 Email: email@gmail.com  
 Contact Phone: 630-434-5530

Signature: Sharon Hillman  
 Print Name: Sharon Hillman  
 Title: Executive V.P.  
 Date: 5/1/13

Customer: [Redacted]  
 Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_



where energy comes from

**MC Squared Energy Services, LLC.**  
**Power Supply Agreement - ComEd**

**Terms and Conditions of Service**

**Contract No. 451246**

This Power Supply Agreement ("Agreement") is entered into as of 05/06/2013 with **MC Squared Energy Services, LLC.** ("mc<sup>2</sup>" or "MC<sup>2</sup>") d.b.a. mc<sup>2</sup> – Where Energy Comes From, a subsidiary of DPL Inc. ("DPL") located at 2 North Riverside Plaza, Suite 1350, Chicago, IL 60606. "We", "us" or "our" refers to mc<sup>2</sup>, and "Customer", "you" or "your" refers to **Village of Downers Grove**. mc<sup>2</sup> and Customer herein may be referred to individually as a "party" or collectively as the "Parties." "Host Utility" refers to Commonwealth Edison Company ("ComEd").

**This Agreement and the attached Confirmation(s) are subject to the following terms and conditions:**

1. **Authorized Locations** - This Agreement relates only to Participating Accounts listed on the respective Confirmation(s), which is incorporated by reference herein and shall not be effective until individually signed by both Parties. Additional Customer account numbers and locations may be added as Participating Accounts only upon the written agreement of both mc<sup>2</sup> and Customer.
2. **Eligibility** - This Agreement is available to non-residential customers.
3. **Nature of the Services** - Upon execution of this Agreement by both Parties, mc<sup>2</sup> agrees to provide and/or arrange for competitive electric supply to satisfy the requirements of the Customer's Participating Accounts ("Service") as identified in the respective Confirmation(s). In return, the Customer agrees to receive and pay for that Service. Neither Party shall be considered in default of its obligations (except for the obligation to pay money) under this Agreement in the event of Force Majeure. The term "Force Majeure" shall mean the occurrence or non-occurrence of any act or event that is not reasonably within the control of the claiming Party and which, by the exercise of due diligence, such Party could not have prevented or overcome. Examples of such causes include, but are not limited to,  
(a) acts of God or of the public enemy, (b) fires, (c) floods, (d) epidemics, (e) acts of a state or federal regulating authority, or (f) other similar acts or occurrences. Force Majeure shall not include (aa) economic loss due to a Party's loss of markets or suppliers; (bb) the financial condition of a Party or general economic conditions; (cc) changes in the market prices of fuel, energy, or electricity; (dd) the ability of mc<sup>2</sup> to sell Services at a price greater than the Price agreed to hereunder; or (ee) the ability of Customer to buy or receive Service at a price less than the Price agreed to hereunder.
4. **Term** -
  - a. **Initial Term** - mc<sup>2</sup> will commence Service subject to receiving an accepted delivery access service request (DASR) from ComEd for each Customer utility account based on the Meter Read Cycle Start date(s) and continue through the estimated Customer Meter Read Cycle End date(s) stated in the Confirmation attached. Meter Read Cycle Start and End dates are based on estimates which may vary based on actual utility read dates for those cycles. The Initial Term is defined on the attached Confirmation and cannot start before the Earliest Confirmation Start and cannot end after the Latest Confirmation End dates.
  - b. **Extension of Initial Term** - UNLESS OTHERWISE SPECIFIED IN THE CONFIRMATION ATTACHED, THIS AGREEMENT WILL EXTEND AUTOMATICALLY AFTER THE CONTRACT END DATE ON A MONTH-TO-MONTH BASIS UNLESS CANCELLED BY EITHER PARTY UPON 30 DAYS' WRITTEN NOTICE PRIOR TO THE END OF THE INITIAL TERM OR ANY EXTENSIONS THEREOF. CUSTOMERS ELECTING TO BE SERVED ON A MONTH TO MONTH BASIS WILL PAY FOR ENERGY BASED ON REAL TIME HOURLY INDEX PRICES INCLUDING BALANCING AND OPERATING RESERVES PLUS ANY APPLICABLE RTO, REGULATORY AND COMED COSTS INCURRED BY MC<sup>2</sup> WHILE SERVING THAT CUSTOMER'S ACCOUNT PLUS AN ADMINISTRATIVE COST OF \$.007 PER KWH.





where energy comes from

- c. **Renewal** – Unless otherwise specified in the Confirmation attached, mc<sup>2</sup> will send a Renewal Letter delivered by U.S. Mail, facsimile or electronic mail no later than 30 days prior to the initial contract end date. The Renewal Letter will offer to extend, via a new Confirmation, the Customer's term of Service for one year at a fixed rate for customers on the Fixed Price Classic product. The Customer must provide written notification to cancel this renewal offer within 15 days of the Renewal Letter date. After 15 days, the proposed Confirmation will be deemed accepted and the Customer's current contract term will be amended accordingly. Customers that do not accept the renewal offer but continue to be served by mc<sup>2</sup> without a new Confirmation will be billed on a month to month basis described above after the end of their current Confirmation.
5. **Price** - For delivery of power to ComEd's distribution facilities on behalf of your utility account(s) identified in the Confirmation attached, you agree to pay mc<sup>2</sup> the charges identified on the attached Confirmation in the form of one energy price if you select our Fixed Price Classic product. The Confirmation must specify your choice of product(s) along with included components and related volumes as required for each product and is part of this Agreement. To the extent that any volumes flow outside of the Earliest Confirmation Start and Latest Confirmation End dates, mc<sup>2</sup> will charge the Customer based on real time hourly index prices including balancing and operating reserves plus any applicable RTO, regulatory and ComEd costs incurred by mc<sup>2</sup> while serving the Customer plus an administrative cost of \$.005 per kWh.
6. **Billing and Payments** – mc<sup>2</sup> will arrange for Customer to be invoiced for the Service provided pursuant to this Agreement during the preceding month. If billed by the Host Utility, the Customer will continue to pay its bill in accordance with the Host Utility's billing and payment policies. If billed by mc<sup>2</sup>, the payment terms for the total invoiced amount is defined in the Confirmation. Interest will accrue at a rate of 1 percent per month (18 percent per annum), on all past due amounts from the applicable due date. If a check tendered to mc<sup>2</sup> is not honored by a bank and is returned, or an ACH transaction fails to clear in the required timeframe, mc<sup>2</sup> will add to your bill a returned check charge or failed ACH fee of \$25 for processing. If you do not pay your bill on time, you may incur late fees. Payment shall be due to mc<sup>2</sup> in accordance with section 18 of the RFP Contract.
7. **Credit** - Prior to the execution of this Agreement by mc<sup>2</sup>, mc<sup>2</sup> may conduct a credit check to determine Customer's creditworthiness. Customer consents to such credit check and agrees that if Customer does not satisfy mc<sup>2</sup>'s credit standards, mc<sup>2</sup> may request reasonable credit assurance as specified below. If during the Term of this Agreement or during any subsequent renewal period, mc<sup>2</sup> has reasonable grounds to believe Customer no longer meets mc<sup>2</sup>'s creditworthiness standards and a subsequent credit check confirms same, or if Customer makes two or more late payments, mc<sup>2</sup> may require Customer to provide reasonable credit assurances. Reasonable credit assurances may include, but are not limited to, a non-interest bearing cash deposit of no more than eight weeks of Customer's average usage, an escrow agreement, letter of credit, parental guaranty, or surety bond. In the event that Customer fails to provide such acceptable form of credit assurance, then mc<sup>2</sup> may suspend Service under this Agreement with 14 days written notice, or terminate the offer if service has not yet commenced. Any cash deposit will be allocated to any balance owed to mc<sup>2</sup> at the time of Customer's final bill with mc<sup>2</sup> charges, and any remaining amount will be returned to the Customer.
8. **Actions of Governmental and Regulated Entities** – If action is taken by the Host Utility, applicable regional transmission organization, transmission provider, or any federal, state or local governmental authorities which materially changes the amounts charged by such entities to mc<sup>2</sup> or charged by such entities to mc<sup>2</sup>'s wholesale supplier and flowed-through to mc<sup>2</sup>, including any increases or changes in applicable taxes, charges not otherwise reimbursed by the regional transmission organization or which materially changes the manner in which mc<sup>2</sup> provides Service to Customer, mc<sup>2</sup> may, at its sole discretion, elect to adjust the Price for Service under this Agreement to account for any such cost increases. mc<sup>2</sup> will give the customer fifteen (15) days written notice of any proposed price adjustments.
9. **Adverse Material Change** – The Customer shall use reasonable efforts to provide mc<sup>2</sup> notice prior to any planned business changes or other modifications to operations at the Participating Accounts that result in significant changes in load with respect to the Participating Accounts, such as adding or removing a facility. Furthermore, the Parties recognize that the Price for Service as set out in the Confirmation(s) is predicated on the continuation of a specified energy usage level and consumption pattern substantially similar to that represented in the Confirmation(s). In the event that Customer's usage level and/or consumption pattern for the Participating Accounts experience a material change and that material change impacts the cost mc<sup>2</sup> incurs to serve Customer, mc<sup>2</sup> may pass through the additional costs.



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10. Contacting Us - You can reach us:

- **By mail** at 2 North Riverside Plaza, Suite 1350, Chicago, IL 60606;
- **By telephone** at (877) 622-7697
- **Internet** : [www.mc2energyservices.com](http://www.mc2energyservices.com)
- Our business hours are 9:00 AM to 5:00 PM Central Prevailing Time (CPT), Monday through Friday.

11. Access to and Release of Information by mc<sup>2</sup> - By this Agreement, you appoint mc<sup>2</sup> as your exclusive Alternative Retail Energy Supplier (ARES) for all Participating Accounts listed in the Confirmation. mc<sup>2</sup> will act as your exclusive agent for all matters related to service under the Host Utility's Delivery Service tariff. mc<sup>2</sup> will arrange for supply of all your electricity requirements for the Participating Accounts specified in the Confirmation. You are to provide all necessary data and authorizations so that mc<sup>2</sup> can enroll your accounts and you authorize us to take such actions as necessary and reasonable to perform this Agreement, including but not limited to, enrolling accounts, procuring supply, scheduling and causing electricity to be delivered to each account. The Parties recognize that Customer information is necessary for mc<sup>2</sup> to provide Service under this Agreement. Customer authorizes the Host Utility to provide mc<sup>2</sup> with any and all Customer information, including but not limited to: all energy consumption records, rate, billing data, and projection information. Customer agrees that mc<sup>2</sup> may provide a copy of this Agreement to the Host Utility as necessary and hereby authorizes and instructs the Host Utility to treat a copy of this notice as an original. This authorization is valid during the term of the Agreement.

12. Successors and Assigns - The Parties' obligations shall be binding on any successors and permitted assigns. Neither Party may assign the Agreement in whole or in part without the other Party's prior written consent, which consent shall not be unreasonably withheld provided that: (a) mc<sup>2</sup> may assign the Agreement to another ARES, without Customer's prior consent and such ARES shall agree in writing to be bound by this Agreement and (b) mc<sup>2</sup> will not withhold its consent if Customer assigns this Agreement provided the assignee meets mc<sup>2</sup>'s standard credit requirements and agrees to be bound by the terms of this Agreement upon any valid assignment of the Agreement. The other Party hereby agrees that the assigning Party shall have no further future obligations under this Agreement.

13. Miscellaneous - You are solely responsible for any contract termination fees or other fees or damages assessed by any other competitive retail electric supplier.

14. Events of Default and Remedies - An "Event of Default" shall mean, with respect to a defaulting Party, a) the failure to perform any material covenant or obligation set forth in this Agreement or Confirmation(s) if such failure is not remedied within two (2) business days after written notice or otherwise excused in the event of Force Majeure; or b) such Party files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law. If an Event of Default occurs and is continuing, the non-defaulting Party may, at its option and in its sole discretion, a) suspend its performance under this Agreement, or b) terminate this Agreement. At the time of such Early Termination, the non-defaulting Party shall have the right to demand payment of an Early Termination Amount, which the defaulting Party shall pay upon invoice by the non-defaulting Party. The Early Termination Amount shall be calculated as the result of multiplying (a) the difference (if any) of the Price for Service set out in the Confirmation(s) and the Market Price by (b) the Contract Quantities set out in the Confirmation(s) from the time of Early Termination through the end of the Initial Term of the Agreement. Market Price shall mean the amount, as determined by the Party entitled to payment that a bona fide third party would pay for the Service at then current prevailing market prices. The Party entitled to payment may consider, among other things, quotations from the leading dealers in the wholesale energy industry, internally developed forward market prices and other bona fide third party offers as commercially available. To arrive at a Market Price, bona fide offers may be reasonably adjusted, with sufficient supporting documentation, for differences in transmission costs, volume, and other factors, as reasonably determined by the Party entitled to the Early Termination Amount. If Customer is the defaulting party, then the Early Termination Amount shall also include any unpaid and outstanding invoices for Service under this Agreement. In addition, an administration charge of \$0.005 per kilowatt hour will be paid by Customer for all hours projected to be billed for the remainder of the contract term. The above notwithstanding, under no circumstances shall a non-defaulting Party be required to make any payment to a defaulting Party under this Agreement. In the event of any litigation arising out of or connected in any manner to this Agreement, the non-prevailing Party shall pay the costs of the prevailing Party, including its reasonable attorney and other legal fees and expenses incurred in connection therewith through and including the costs of appeals and



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appellate costs relating thereto.

15. Title – Title shall pass from mc<sup>2</sup> to Customer at the point of interconnection between a third party transmission or distribution system and the Host Utility's transmission or distribution system.
16. Warranty and Limitation of Liability – WARRANTY - THE SERVICE SOLD UNDER THIS AGREEMENT WILL MEET APPLICABLE INDUSTRY QUALITY STANDARDS. MC<sup>2</sup> MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, AND MC<sup>2</sup> EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
17. LIMITATION OF REMEDIES, LIABILITY AND DAMAGES - THE REMEDY IN ANY CLAIM OR SUIT BY CUSTOMER AGAINST MC<sup>2</sup> WILL BE LIMITED TO THE LESSER OF THE DIRECT ACTUAL DAMAGES, OR THE AMOUNT PAID TO MC<sup>2</sup> UNDER THIS AGREEMENT FOR THE SIX MONTH PERIOD PRIOR TO THE OCCURRENCE THAT GAVE RISE TO SUCH CLAIM. BY ENTERING INTO THIS AGREEMENT, CUSTOMER WAIVES ANY RIGHT TO ANY OTHER REMEDY. IN NO EVENT WILL MC<sup>2</sup> BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGES.
18. Confidentiality – Section has been deleted at customer's request.
  
19. Authorization - Each Party warrants that the individual signing this Agreement on behalf of such Party has the authority to enter into this Agreement and to bind the principal in whose behalf he or she signs. Further, each Party agrees and affirms that the undersigned possesses all requisite right and authority of his or her principal to order or provide, and to obligate his or her principal to pay for, or to deliver the work described hereunder.
20. Demand Response - To the extent Customer elects, or has elected, to participate in a PJM or ComEd Demand Response Program or Net Metering Program, Customer agrees to provide mc<sup>2</sup> notice of its participation, and the first commercially reasonable opportunity to be its Curtailment Service Provider. Customer also agrees to notify mc<sup>2</sup> if they have on site generation capabilities.
21. Facsimile and Electronic Signatures - This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all signatures delivered by facsimile and/or electronically shall be as effective as original signatures.
22. Notices - Notices required hereunder shall be deemed properly made if delivered personally, sent by nationally recognized overnight delivery service, or via regular mail or via email to the following addresses, and shall be deemed effective upon receipt if received during normal business hours on a business day, otherwise such notice shall be deemed effective on the next business day. The information for Notices to Customer is identified on the Confirmation(s).  
  
Notices to mc<sup>2</sup>: MC Squared Energy Services, LLC Sales Management  
2 North Riverside Plaza, Suite  
1350 Chicago, IL 60606  
Email: info@mc2energyservices.com
23. Emergency, Outage and Wire Service - In the event of an emergency, outage or service need, Customer must call ComEd at the emergency number indicated on the mc<sup>2</sup> and/or the ComEd invoice.



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24. Market and other factors may affect mc's ability to continue to offer this Agreement and the Confirmation(s), which are offered on an as-available basis on the Offer Date stated on the Confirmation(s) and subject to change thereafter unless executed by both Parties on the Offer Date contained on the Confirmation(s). Accordingly, this Agreement and the Confirmation(s) is nonbinding until fully executed by both Parties and may be revoked at mc's discretion at any time prior to mc's final execution. To the extent any conflict exists between this Agreement and any effective Confirmation, the terms of the Confirmation shall control.

Customer Services

Signature: Sharon Hillman

Print Name: Sharon Hillman

Title: Executive V.P.

Date: 5/8/13

Customer Services

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

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