

**VILLAGE OF TARRYTOWN  
BOARD OF TRUSTEES  
WORK SESSION 6:00 P.M.  
WEDNESDAY, AUGUST 12, 2015  
Tarrytown Village Hall  
One Depot Plaza, Tarrytown, New York**

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6:00 p.m. Special Meeting – Public Hearing – Hardship Waiver Application

Board of Trustees Concerns

Open Session

1. Deed – Tarrytown to Sleepy Hollow
2. Village Elections
3. Parking – Wilson Park Open Space
4. Tarrytown Parking
5. Hudson River Valley Greenway Compact Grant – Transit Oriented Development
6. Community Choice Aggregation (Energy) Plan
7. LWRP Document
8. Fire Department Membership Changes
9. Award of Paving Bid

Executive Session

- 1A. Parks and Recreation Staffing
  - (a) Parks Maintenance
  - (b) Recreation
- 2A. Police Personnel
- 3A. DPW Personnel
- 4A. ARB Appointment

**BARGAIN AND SALE DEED WITH COVENANT AGAINST  
GRANTOR'S ACTS (INDIVIDUAL OR CORPORATION)**

**FORM 8007 (long version)**

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR  
SELLER AND PURCHASER BEFORE SIGNING

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, 2015, between VILLAGE OF TARRYTOWN, with an office at One Depot Plaza, Tarrytown, NY 10591, party of the first part, ("VTT") and VILLAGE OF SLEEPY HOLLOW, (28 Beekman Avenue, Sleepy Hollow, New York 10591, party of the second part ("VSH");

**WITNESSETH**, that the party of the first part, in consideration of Ten Dollars and No Cents (\$10.00), lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

See Schedule "A" annexed;

**ON CONDITION** that said premises shall be used for recreation and playground purposes, in perpetuity, in accordance with and subject to the terms set forth in Schedule "B" annexed,

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part, covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

VILLAGE OF TARRYTOWN

By: \_\_\_\_\_  
Michael S. Blau, Village Administrator

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF WESTCHESTER )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2015, before me, the undersigned, personally appeared Michael S. Blau, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that they executed the same in their capacity(ies), and that by their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and office of individual taking acknowledgment

**Deed**

Title No. \*\*\*S-14336-W\*\*\*

Village of Tarrytown  
To  
Village of Sleepy Hollow

**District**  
**Section**  
**Block**  
**Lot**  
**County or Town** Greenburgh  
**Street Address**

**Return By Mail To:**

Clinton B. Smith, Esq.  
McCarthy Fingar LLP  
11 Martine Avenue, 12<sup>th</sup> Floor  
White Plains, New York 10606

**Reserve This Space For Use Of Recording Office**

SCHEDULE "A"

All that certain plot, piece or parcel of land situate, lying and being in the Village of Sleepy Hollow and the Village of Tarrytown, County of Westchester, State of New York bounded and described as follows:

Commencing at a point on the westerly side of Valley Street, which is intersected by the southeasterly corner of lands now or formerly of SH Affordable Housing Development Fund Company, Inc. (control number 48280273), and the northeasterly corner of the parcel herein described, thence along Valley Street South 05°39'57" West a distance of 64.99 feet to the Point of Beginning;

Thence along Valley Street South 05°39'57" West a distance of 7.18 feet to a point, thence on a curve to the right, having a radius of 15.00 feet and an arc length of 25.00 feet to a point on the northerly side of Wildey Street, thence along Wildey Street North 78°51'23" West a distance of 172.17 feet to a point;

Thence leaving Wildey Street North 50°05'27" East a distance of 23.23 feet to a point, thence South 69°56'13" East a distance of 28.00 feet to a point, thence North 18°23'57" East a distance of 33.18 feet to a point, thence North 17°04'27" East a distance of 26.82 feet to a point, thence South 70°01'53" East a distance of 31.67 feet to a point, thence South 10°08'37" West a distance of 2.10 feet, thence North 88°44'27" East a distance of 81.78 feet to a point, thence South 11°12'07" West a distance of 56.05 feet to a point, and thence South 69°30'13" East a distance of 26.40 feet to the Point of Beginning.

Containing 9,720 square feet or 0.223 acres,

Together with

All that certain plot, piece or parcel of land situate, lying and being in the Village of Tarrytown, County of Westchester, State of New York bounded and described as follows:

Beginning at a point on the easterly side of Cortlandt Street, which is intersected by the boundary line between the Village of Sleepy Hollow and the Village of Tarrytown, thence along said boundary line South 48°04'13" East a distance of 56.04 feet to a point on the northerly side of Wildey Street;

Thence along Wildey Street North 78°51'23" West a distance of 29.18 feet to a point, thence on a curve turning to the right and having a radius of 20.00 feet and an arc length of 33.49 feet to a point on the easterly side of Cortlandt Street, thence along Cortlandt Street North 16°44'48" East a distance of 6.14 feet to the Point of Beginning.

Containing 615 square feet.

SCHEDULE "B"

- 1) VSH agrees to continue to use and maintain Reverend Sykes Park (the Park), at its sole cost and expense, as a municipal recreational and playground facility in perpetuity.
- 2) VSH agrees that residents of VTT will be permitted to use the Park for its permitted purposes in perpetuity and that VTT residents shall have the same rights and privileges related to use of the Park as are from time to time granted to residents of VSH.
- 3) VSH's use of the Park shall be in conformity with safe practices and shall at all times be in compliance with all local, State, and Federal laws, statutes, rules, and regulations pertaining thereto. Furthermore, VSH shall comply with the provisions of all applicable local, state and federal laws, rules and regulations, including, but not limited to, those promulgated or enforced by the EPA, DEP, NYSDOH or applicable to VSH as an employer of labor. VSH shall further comply, at its sole expense, with applicable rules, regulations and licensing requirements pertaining to their professional status and that of their employees, partners, associates, consultants and others employed to render any work hereunder.
- 4) VSH shall defend, indemnify, protect, and save harmless VTT, its officers, agents, employees, sub-licensees or invitees, successors and assigns from and against any and all claims, actions, suits, damages, liabilities, costs, and expenses, including, without limitation, reasonable attorneys' fees and disbursements, for any claims that may have arisen up to and including the date of transfer of the Park from VTT to VSH for actions related to the use of the Park.
- 5) VSH hereby releases, settles, cancels, discharges and acknowledges to be fully satisfied, any and all claims demands, damages, debts, liabilities, obligations, costs, expenses, liens, actions, and cause of action of every kind and nature whatsoever, whether under federal, state or common law, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, which VSH or anyone claiming by, through or under VSH may, now or hereafter, have against VTT relating to the land and/or the transfer of the land herein.



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNIDERMAN  
ATTORNEY GENERAL

BARBARA D. UNDERWOOD  
SOLICITOR GENERAL

Telephone (518) 776-2009

June 17, 2015

Steven M. Silverberg  
Village Attorney  
Village of Tarrytown  
220 White Plains Road, 5<sup>th</sup> Floor  
Tarrytown, NY 10591

Dear Mr. Silverberg:

I have received your request for opinion relating to a proposal to change the month of the Village's general election. I am enclosing a copy of Op. Att'y Gen. (Inf.) No. 2000-19, in which we explained that the terms of current holders of elective offices are extended upon approval of a proposition changing the month of the general election. I believe this answers your first two questions.

I am not certain that I understand your third question but would direct you to Village Law § 3-302(1), which provides that "[a]n official year begins at noon on the first Monday in the month following the date of the general village election or the date such an election would have been held had elections been held annually."

I trust the enclosed will prove helpful. Please feel free to contact me if you would like to discuss or if I have misunderstood your questions.

Very truly yours,

KATHRYN SHEINGOLD  
Assistant Solicitor General  
In Charge of Opinions

Enclosure

Opn. No. 2000-19

ELECTION LAW, ART 9, §§ 1-104(32), § 15-104, VILLAGE LAW § 9-912; L. 1989, CH. 359.

The terms of elected village officers are extended in order to effect a change in the date of the village election.

November 7, 2000

Wayne D. Essanason, Esq.  
Village Attorney  
Village of Scarsdale  
Scarsdale, NY 10583

Informal Opinion  
No. 2000-19

Dear Mr. Essanason:

You have requested our opinion regarding the procedure for changing the month of the general village election from March to November. Your specific concern is the manner in which the terms of elected village officials should be modified to effect the transition to the new election date. We conclude that the terms of village officers should be extended as long as necessary to guarantee that no village office goes unoccupied for any period of time as a result of the transition.

The general village election "is the annual or biennial election for village officers." Election Law §§ 1-104(32). The procedures for changing the month of the general village election are set forth in Village Law § 9-912 and Election Law § 15-104(2). Village Law § 9-912 requires that the voters, in a referendum, approve a proposition to establish the new month. Under the Election Law, an approved proposition

shall not become effective until the next election regularly scheduled to be held more than one hundred twenty days following its adoption. Upon the adoption of such a proposition, the term of any village officer elected at the election at which such proposition is adopted or less than one hundred twenty-one days thereafter, and the term of any village officer whose successor is scheduled to be selected more than one hundred twenty days thereafter shall be extended until the date fixed as a result of such proposition for his successor to take office. Election Law § 15-104(2) (emphasis supplied).

In our view, the date of the general village election first impacted by the proposition changing the month of general village elections is not entirely clear on the face of the statute. The uncertainty is whether "the next election regularly scheduled to be held more than 120 days following adoption of the proposition," at which time the proposition becomes effective, is to be held during its regularly scheduled month or during the new month set forth once the proposition becomes effective.

We believe that the Legislature intended the next regular general village election scheduled more than 120 days after adoption of the proposition to be held on the new election date rather than on its originally scheduled date. Thus, if the next originally scheduled March general village election were to be held more than 120 days after adoption of the proposition, then that election will instead be conducted in November, as provided in the proposition. If the Legislature had intended that that election

also occur on the originally scheduled date, it could have provided in Election Law § 15-104(2) that the approved proposition not become effective "until after the next election regularly scheduled to be held more than 120 days following adoption," rather than merely "until" that election.

Similarly, the underlined language in the provision cited above provides for the extension of the term of an officer whose successor is to be elected at that next election, until such time as the successor takes office as a result of the proposition. By providing for a necessary extension of the current term of office, this language indicates a legislative intention that a general village election (in your case, the March general election) scheduled to occur more than 120 days after adoption of the new date is not to be conducted on its originally scheduled date, but rather later on the new date (here, November).

The procedure for transition to the new election month is also established by Election Law § 15-104(2). The term of any village officer who is elected at the time the proposition is approved, or 120 or fewer days thereafter, is extended beyond its usual termination date to the date his successor, elected on the new general village election date (here, November), is to take office. *Id.* The existing term of an elected village officer that is scheduled to expire more than 120 days after the passage of the proposition similarly is extended to the date on which the successor would take office. *Id.* Thus, the terms of all of your Village's current and newly elected village officers are extended to effect the transition to the new November general election date without interruption in occupation of their offices.

We conclude that the terms of elected village officers are extended in order to make a transition to a change in the month of the general village election. They are never truncated.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE  
Assistant Solicitor General  
In Charge of Opinions



## Mike Blau

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**From:** Janine King <jking@crotononhudson-ny.gov>  
**Sent:** Tuesday, June 16, 2015 4:38 PM  
**To:** Mike Blau  
**Subject:** Re: Proposition 1 of 2011

The ones who were elected on March 2011 went to December 1 2013. The ones whose terms would have expired on March 2012, went to December 1 2012.

Janine King  
Acting Village Manager  
Village of Croton on Hudson  
1 Van Wyck Street  
Croton on Hudson, NY 10520  
914-271-4848  
[www.crotononhudson-ny.gov](http://www.crotononhudson-ny.gov)

**Mike Blau <MBlau@tarrytowngov.com> on Tuesday, June 16, 2015 at 2:49 PM -0400 wrote:**

So you had your referendum as part of the March election. So how long were the terms of those Trustees who were elected at that March election.

**From:** Janine King [mailto:jking@crotononhudson-ny.gov]  
**Sent:** Tuesday, June 16, 2015 2:46 PM  
**To:** Mike Blau  
**Subject:** Fwd: Proposition 1 of 2011













Mike,  
See attached for the language Croton used on the ballot.

Janine King  
Acting Village Manager  
Village of Croton on Hudson  
1 Van Wyck Street  
Croton on Hudson, NY 10520  
914-271-4848  
[www.crotononhudson-ny.gov](http://www.crotononhudson-ny.gov)

----- Original Message -----

# SAMPLE BALLOT

March 15, 2011

MAYOR (Vote for ONE) 2 Year Term		TRUSTEE (Vote for TWO) 2 Year Terms	
 1A Democrat Leo A.W. Wiegman	 2A Democrat Ian W. Murtaugh	 3A Democrat Casey Raskob	
 1B Republican Mark Aarons	 2B Republican Patrick Calcutti	 3B Republican Keith Douglas	
 1C Alliance Mark Aarons	 2C Alliance Patrick Calcutti	 3C Alliance Keith Douglas	
 1D Croton Taxpayers Leo A.W. Wiegman	 2D Croton Taxpayers Ian W. Murtaugh	 3D Croton Taxpayers Casey Raskob	

## PROPOSITION NO. 1

Shall the month of the regular Village election for the Village of Croton-on-Hudson, Westchester County, New York, be changed from March (the third Tuesday) to the general election in November (the first Tuesday after the first Monday)?

YES

☐

NO

☐

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the following resolution was adopted by the Board of Trustees of the Village of Croton-on-Hudson, New York:

WHEREAS, a petition was filed with the Village Clerk on January 20, 2011 that a proposition be submitted to the qualified electors of the Village at the regular Village election in March 2011 on the question whether to change the month of the regular Village election from March (the third Tuesday) to the general election in November (the first Tuesday after the first Monday); and

WHEREAS, on February 4, 2011, the Village Clerk certified that the Petition is sufficient and complies with all requirements of law pertaining thereto; and

WHEREAS, pursuant to Village Law § 9-912, upon such petition, the Board shall cause the proposition to be submitted at a village election; and

WHEREAS, the Village Clerk has prepared and presented to the Board an abstract of the proposition stating the purpose and effect thereof,

NOW THEREFORE, BE IT RESOLVED: that the Board of Trustees of the Village of Croton-on-Hudson approves the abstract and directs that Proposition No. 1 be submitted at the general village election on March 15, 2011 on the question whether to change the month of the regular Village election from March (the third Tuesday) to the general election in November (the first Tuesday after the first Monday).

Dated: February 7, 2011

## **NOTICE OF ADOPTION OF RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM**

NOTICE IS HEREBY GIVEN, that at a regular meeting held on the fifteenth day of September, 2003, the Board of Trustees of the Village of Ardsley duly adopted a resolution, an abstract of which follows, which resolution is subject to a permissive referendum pursuant to Article 9 of the Village Law of the State of New York.

Dated : \_\_\_\_\_, 2003

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Clara Smith  
Village Clerk  
Village of Ardsley

**Shall the General Village Election of the Village of Ardsley be held annually on the Tuesday next succeeding the first Monday in November (to coincide with the date of the General Election, as defined in Section 8-100 of the Election Law of the State of New York) and the term of office of each elected Village Officer who currently holds such elected office terminate at noon on the first Monday in December in the year in which his term would otherwise expire ?**

## **TARRYTOWN PARKING**

### **Village of Tarrytown**

1, 2 family- 2 spaces per unit

Multi-family- 2.5 spaces per unit

### Overview

1 Family 2 parking spaces- 11 of the 13 municipalities

Exceptions- Sleepy Hollow- 1 per dwelling

Mamaroneck- Number based on number of bedrooms

2 family 4 parking spaces- 9 of 13 municipalities

Exceptions- Sleepy Hollow- 1 per dwelling

Mamaroneck- Number based on number of bedrooms

### Multi-family Analysis

### *Village of Tarrytown*

2.5 parking spaces per unit

Example- 3 family (2 bedroom)= 7.5 parking spaces

### *City of Peekskill*

2 parking spaces per unit

Example- 3 family (2 bedroom)= 6 parking spaces

### *Village of Mamaroneck*

1 parking space per dwelling plus  $\frac{1}{2}$  space per bedroom

Example- 3 family (2 bedroom)= 6 parking spaces

### *Village of Pleasantville*

2 parking spaces for 2 or more bedrooms

Example- 3 family (2 bedroom)= 6 parking spaces

### *Village of Irvington*

1.5 parking spaces x each dwelling

Example- 3 family (2 bedroom)= 4.5 parking spaces

### *Town of Mamaroneck*

1.5 parking spaces for 2 bedrooms

Example- 3 family (2 bedroom)= 4.5 parking spaces

#### *Village of Hastings*

1  $\frac{3}{4}$  parking space per 2 bedroom unit

Example- 3 family (2 bedroom)= 5.25 parking spaces

#### *Village of Croton*

1  $\frac{1}{2}$  parking space per unit

Example- 3 family (2 bedroom)= 4.5 parking spaces

#### *Village of Briarcliff Manor*

3 parking spaces per 2 bedroom unit

Example- 3 family (2 bedroom)= 9 parking spaces

#### *Village of Ardsley*

2 parking spaces per unit **\*\*Note\*\*** 1 space must be a garage

Example- 3 family (2 bedroom)= 6 parking spaces

#### *Village of Sleepy Hollow*

1 parking space for each unit plus  $\frac{1}{2}$  space for each bedroom

Example- 3 family (2 bedroom)= 6 parking spaces

#### *Village of Dobbs Ferry*

2 parking spaces per unit

Example- 3 family (2 bedroom)= 6 parking spaces

#### *Village of Elmsford*

2 parking spaces per unit

Example- 3 family (2 bedroom)= 6 parking spaces

#### **Final scoreboard at a glance**

- 1) Based on the example, Tarrytown multi-family parking space requirements appear to be an outlier at 7.5
- 2) Based on the example, the multi-family average number of spaces is- 5.94
- 3) Two municipalities; Village of Mamaroneck and Sleepy Hollow appear to have a fluid system in place that take into account an increased/decreased need for parking in relation to the number of bedrooms per unit. Both municipalities had the average number of required parking spaces per multi-family unit in my example.



## Hudson River Valley Greenway

## Memorandum of Understanding Face Page

**DATE:** June 10, 2015

**PROJECT**

Tarrytown Station and Waterfront Transit  
Oriented Development, as set forth in detail in  
Schedule 1.

**GRANTEE**

Village of Tarrytown  
One Depot Plaza  
Tarrytown, NY 10591  
A Municipal Corporation

**GREENWAY**

Hudson River Valley Greenway Communities Council

**Name:** Mark Castiglione

**Title:** Acting Executive Director

**Telephone:** (518) 473-3835

**Facsimile:** (518)-473-4518

**E-Mail:** hrv@g@hudsongreenway.ny.gov

**Address:** 625 Broadway – 4<sup>th</sup> Floor  
Albany, New York 12207-2995

**SPECIAL AWARD CONDITIONS**

None.

**CONTRACT ID:** CP 15-06-01-W

**CONTRACT TYPE:**

☐ Greenway Communities Grant

☒ Greenway Compact Grant

**CONTRACT PERIOD**

**From:** June 10, 2015

**To:** Two years after the date of execution

**FUNDING AMOUNT**

\$ 15,000.00, (fifteen thousand dollars)

**GRANTEE'S GREENWAY STATUS AS OF:**

August 2001

☐ Greenway Planning Community

☒ Greenway Compact Community

**GRANTEE NYS VENDOR ID#:** 660401640104

**GRANTEE FEDERAL TAX ID #:** 13-6007334

**CHIEF ELECTED/AUTHORIZED SIGNER**

**Name:** Michael Blau

**Title:** Village Administrator

**Telephone:** 914-631-1885

**Facsimile:** 914-909-1208

**E-Mail 1:** mblau@tarrytowngov.com

**E-Mail 2:**

Grantee correct as necessary

**LEAD PROJECT CONTACT**

**Name**

**Title:**

**Telephone:**

**Facsimile:**

**E-Mail 1:**

**E-Mail 2:**

Grantee correct as necessary

## Memorandum of Understanding Signature Page

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the latest parties' signature date written below:

For the GREENWAY:

For the GRANTEE:

\_\_\_\_\_  
Mark Castiglione  
Acting Executive Director  
Greenway Communities Council

\_\_\_\_\_  
Michael Blau  
Village Administrator  
Village of Tarrytown

Date \_\_\_\_\_

Date \_\_\_\_\_

State of New York                    )  
County of                                )

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_,  
before me personally came

\_\_\_\_\_, to me known, and  
known to me to be the person described in and who executed  
the foregoing instrument and he/she acknowledged to me  
that he/she executed the same.

\_\_\_\_\_  
Notary Public



# MEMORANDUM OF UNDERSTANDING

## **I. BACKGROUND**

This Memorandum of Understanding (MOU) is by and between the GREENWAY, a council of state and local government, and the GRANTEE, as identified on the Face Page hereof.

## **II. PURPOSE**

The purpose of this MOU is to provide assistance to the GRANTEE for the PROJECT, as set forth in Schedule 1.

## **III. STATEMENT OF MUTUAL INTEREST AND BENEFITS**

The Hudson River Valley Greenway Act calls for the creation of a regional planning compact among the villages, towns and cities of the Hudson River Valley Greenway area. The purposes of the compact are to foster regional planning, protect natural and cultural resources, enhance public access to the Hudson River, promote economic development (including tourism, agriculture and urban redevelopment) and foster heritage and environmental education. The Hudson River Valley Greenway Act authorizes the Council to fund projects related to the development of the Compact.

Land use decisions that affect the immediate and long-range protection of the State's natural and cultural resources, impact economic development and guide the growth and development of New York and its communities are made by local governments. Community planning, incorporating the goals of the Greenway, offers an approach to protect our natural and cultural resources, encourage economic development, promote heritage and environmental education, foster regional partnerships and regional planning, and increase public access to the Hudson River and other natural areas and recreational opportunities.

Communities may voluntarily participate in the development and implementation of the planning compact. Communities participating in the compact process will become eligible for Greenway technical and financial assistance. The GRANTEE voted to participate and was accepted into the Greenway as identified on the Face Page hereof.

**NOW THEREFORE, in consideration of the above premises, the parties agree as follows:**

## **IV. THE GREENWAY**

The GREENWAY shall provide financial assistance pursuant to this MOU.

The GREENWAY shall be responsible for enforcement of the provisions of this MOU and may refuse to authorize payment on any work performed where such work has not been performed with care, skill and diligence, and in accordance with applicable professional standards or where such work does not fulfill the letter or the intent of the provisions of this MOU.

## **V. THE GRANTEE**

### **A. Description of Work Program.**

The project elements are described in the scope of services, which is attached hereto as **Schedule 1**.

#### B. Matching Funds

The GRANTEE shall provide matching funds for this grant to be not less than the funds provided by the GREENWAY. Matching funds may include, but are not limited to, in-kind services (see Section V.C.), grants received and/or cash contributed as set forth in the project budget, which is attached hereto as **Schedule 1**.

#### C. In-Kind Services

The GRANTEE shall provide, to the extent practicable, the GREENWAY with an accounting of actual volunteer time and time spent by other in-kind service providers if such time is to be applied to the match required under this MOU. Cash, force account labor, real property, and donated professional services, labor, equipment, supplies and materials all can be used as the applicant's share of project costs. The entire share must be related to the project for which funds are requested, be fully documented, and fall entirely within the MOU term (see Section IX). The GREENWAY shall require certification of donated professional services.

#### D. Use of Products Produced, Copyright, and Greenway Representation

*Use of Products Produced:* A draft of any documents, reports, studies, maps, signs, brochures etc. must be submitted to the GREENWAY for review prior to final production. When feasible, digital data shall be provided on a media and in a format suitable for use by the GREENWAY.

*Grant of Rights:* All rights, title, and interest to and including the rights of copyright in any reports, studies, photographs (and negatives), computer programs, websites, digital media, drawings, writings or other similar works or documents, along with all supporting data and materials (collectively the "Materials"), produced under this MOU will be owned jointly by the GRANTEE and GREENWAY.

*Representations and Warranties:* the GRANTEE represents and warrants that (i) the Materials will be originally and specifically developed by the GRANTEE for the GREENWAY in fulfillment of this Agreement; (ii) no part of the Materials will defame or libel, or infringe upon or violate any patent, copyright, trade secret, trademark, right of privacy or publicity, nondisclosure or any other proprietary or property rights of any third party; (iii) the GRANTEE is financially responsible and experienced in and competent to perform the type of work required hereunder, is familiar with all applicable laws, ordinances and regulations governing the work required hereunder; and is licensed pursuant to any applicable federal, state, or local licensing requirements; and (iv) the GRANTEE has the full power and authority to enter into and perform this Agreement and to grant the rights granted hereunder.

#### E. Acknowledgement

All final reports, maps, signs and documents shall note the financial contribution of the GREENWAY as follows: ("*Funded in Part by a Grant from the Hudson River Valley Greenway*") and the GREENWAY logo shall be displayed, which will be provided upon request. Final payment is contingent upon proof of final product displaying this acknowledgement.

#### F. Payments

(i) The GRANTEE shall submit Claim Forms to the GREENWAY for payment of services performed. (ii) No advance payments will be provided to any GRANTEE. (iii) No payment under this MOU will be made by the GREENWAY to the GRANTEE unless proof of performance of required services, programs, or accomplishments is provided. Payment shall be made upon audit and approval of the GREENWAY and the Comptroller of claim forms executed by an authorized officer of the GRANTEE. (iv) Eligible expenditures for the Project are those expenditures which are identified in the attached Schedule 1 and which are made in accordance with the applicable appropriation authority, and which have been incurred within the term of the MOU. (v) Any cost

overruns will not be paid by the GREENWAY and the GREENWAY is not committed to seeking additional appropriations or re-appropriation of funds and will not be responsible for the maintenance and operation of any facility which may be developed or equipment which may be purchased with the funds herein identified. (vi) If the GRANTEE fails to submit a final report within 30 days after the expiration of this MOU, further reimbursements may be withheld by the GREENWAY, and all funds previously paid under this MOU may be due and owing. (vii) The GREENWAY shall not be liable for any expenses or obligations arising after the MOU termination date. (viii) Payment for Claim Forms submitted shall only be rendered electronically unless payment by paper check is expressly authorized by the Executive Director, in the Executive Director's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The GRANTEE shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at <http://www.osc.state.ny.us/vendors/index.htm>, by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at 518-474-4032. The GRANTEE acknowledges that it will not receive payment on any Claim Forms submitted under the agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Executive Director has expressly authorized payment by paper check as set forth above.

The GREENWAY will notify the GRANTEE if the Claim Form is incomplete or deficient. Upon authorization, the GREENWAY will process the request for payment. Payments will only be made for amounts greater than or equal to 20% of the total grant.

#### G. Final Payment

The final payment, not to exceed 10% (ten percent) of the grant award, shall be retained by the GREENWAY until the GREENWAY deems the work program complete and upon receipt of a satisfactory final report and all necessary materials summarizing the project (see Section V.H.). Verification of project completion and, when applicable, adoption of plans by the governing body, is required prior to the issuing of final payment.

#### H. Final Report

GRANTEE is required to submit a final report to receive final payment. The final report shall include verification of the completion of the project. Elements of the final report may include, but are not limited to, a narrative; copies of adopted plans, reports, or other publications acknowledging GREENWAY support and containing the GREENWAY logo (see Section V.E.); proof of formal adoption of plans by local government grantees; before and after photographs; sketches; maps; slides; engineering designs; and printed materials containing the GREENWAY logo and any other materials produced fully or in part with grant funds. Final reports may be submitted in either electronic or paper format and must contain a copy of publications or photographs of any products including kiosks and other interpretive structures produced using GREENWAY funds.

#### I. Consultants

The GRANTEE shall provide the GREENWAY with copies of any Request for Proposal (RFP) or of Request for Qualifications (RFQ) for consulting services related to this agreement. The GRANTEE shall notify the GREENWAY when a consultant has been selected.

Consultants or contractors engaged by the GRANTEE to carry out any part of the work program shall be the agents of the GRANTEE. There shall be no obligation between the GREENWAY and such agents. The GRANTEE agrees to comply with any and all of its adopted procurement policies with regard to the engagement of such agents and contractors, as well as all applicable state and federal requirements.

#### J. Expenditure Categories

Expenditures per cost category or line item may exceed the amounts indicated in the project budget up to ten percent (10%) or one thousand dollars (\$1,000), whichever is greater, without approval of the GREENWAY, provided that the Total Grant Funds and Total Matching Funds as set forth in Schedule 1 are not changed. Any expenditure in excess of such 10% or \$1,000 or any change to the Total Grant Funds or Total Matching Funds shall, at the sole discretion of the Greenway, require either an amendment to the Agreement as set forth in Section VII or written approval from the Greenway.

#### K. Record Keeping and Reporting

The GRANTEE will maintain accurate records of expenditures for a period of three years after the project is completed. The GREENWAY may, for a period of three years after project completion, inspect the financial records related to the project.

#### L. Re-Granting

The GRANTEE may not use any grant funds to re-grant to individuals or other organizations.

#### M. Permits

The GRANTEE is responsible for and must acquire any and all federal, state and local permits required for the project. All new construction projects must meet the 2010 American's with Disabilities (ADA) Design Standards [http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm).

#### **VI. Completion of Agreement**

No later than thirty days prior to the expiration date of this agreement, the GRANTEE shall

A. Notify the GREENWAY in writing that work will be completed pursuant to the term of the agreement.

OR

B. Present the GREENWAY with a proposed timetable for completion of any outstanding components of the scope of work beyond the agreement expiration date, and request a specific time extension during which time the project(s) will be completed.

OR

C. Notify the GREENWAY in writing that the GRANTEE is terminating the agreement and releases any remaining funds.

#### **VII. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE SAID PARTIES THAT:**

This MOU may only be modified, superseded or extended in writing and by mutual agreement of the GREENWAY, and the GRANTEE.

#### **VIII. NOTICES**

A. All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- (i) via certified or registered United States mail, return receipt requested;
- (ii) by facsimile transmission;
- (iii) by personal delivery;
- (iv) by expedited delivery service; or
- (v) by e-mail.

Such notices shall be addressed to the parties indicated on the Face Page hereof or to such different addresses as the parties may from time-to-time designate.

B. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

C. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

**IX. Special Award Conditions**

Special Award Conditions are identified on the Face Page hereof.

**X. Effective Date and MOU Term**

This MOU shall be effective when it is fully executed. The term of the MOU is identified on the Face Page hereof. The date of execution is the latest parties' signature date under the **In Witness Whereof** section identified on the Face Page hereof.

# Westchester County Community Choice Aggregation Demonstration Program

## FREQUENTLY ASKED QUESTIONS

### *What is Community Choice Aggregation (CCA)?*

Community Choice Aggregation is a municipal or countywide energy procurement model that enables communities to put out for bid the total demand for electricity and natural gas of participating homes and small businesses and purchase energy on their behalf. Aggregating consumers on a large scale creates the market clout necessary to negotiate lower rates with private suppliers. CCA is currently available in six states: California, Illinois, Massachusetts, Ohio, New Jersey, and Rhode Island. New York will be the seventh. Over five million customers nationwide are served by a CCA program. Most programs have grown steadily and shown customers consistent savings. Sustainable Westchester has been authorized by the New York State Public Service Commission (PSC) to implement the first CCA program in the state.

### *What/Who is Sustainable Westchester?*

Sustainable Westchester (SW) is a non-profit 501(c)(3) consortium of Westchester County local governments founded to generate equitable and ecologically responsible economic growth through innovative, participatory, and replicable initiatives. Member municipalities collaborate on ecologically sustainable programs that stimulate the local economy and secure the health and well being of Westchester residents now and in the future.

### *Which communities can participate?*

All Westchester cities, towns and villages are eligible to participate in the program. Sustainable Westchester has been presenting the CCA program to communities countywide and walking elected officials through the process of enabling their residents' enrollment. If they choose to pursue CCA, communities are encouraged to hold a public hearing to discuss the opportunity, pass a local law authorizing the municipality's participation, and communicate the details of CCA to their residents and small businesses.

### *A local law?*

Yes, this gives the city/town/village the necessary authority to join the demonstration program, but does not commit to it upon passing. The law gives the municipality control over the conditions under which they will participate. It also gives the city/town/village full flexibility to take advantage of future statewide CCA opportunities (i.e. local procurement incentives, energy efficiency fund, etc...)

### *What else do communities have to do to be part of the program?*

After the local law is passed, elected officials can consider passing a resolution that lays out the "ground rules" for their participation. At this point, the municipality has committed to signing a tri-party agreement with Sustainable Westchester and the chosen energy supplier(s)

### *Is my community participating?*

Please check this list (insert link to SW site when we have an updated list posted) to see if your city/town/village has passed a CCA local law. If you don't see it, please contact your elected officials to make sure they have had Sustainable Westchester in for a public presentation.

### *How much will I save?*

Latest data suggests New York residents should expect roughly 10-14% savings on electricity supply and potentially even greater savings for natural gas (prices currently well below historical averages).

### *What if I don't want to participate?*

Absolutely your choice. Every household and small business that currently receives their energy supply from ConEd/NYSEG will be given full advanced notice of the program's initiation and given clear instructions on how they can opt out. There will be online, phone, and mail (pre-paid postcard) options. Customers will have twenty

# Westchester County Community Choice Aggregation Demonstration Program

days from the time they receive the opt-out notification. After that point, those customers that did not opt out will be automatically migrated to the CCA program. This is largely a formality, however. Customers will still have the ability to opt out at any time with no penalties whatsoever.

## *How will Westchester residents be impacted by the CCA program?*

Most customers will not notice any change. The only difference would be that the electricity delivered to the home or business would be cheaper and potentially from cleaner and/or local sources of power. Over time, customers will notice that their rates remain more stable, they have greater access to renewable energy, local generation, and energy efficiency programs.

## *Will my taxes go up?*

No, there is no taxpayer or public funding required to launch or administer this CCA program. In fact, the sales tax on your energy supply will come off your bill, so CCA residents will be paying less in taxes.

## *What if I don't have natural gas at my home/business?*

You will still be enrolled for your electricity supply and receive the same rates as all other residents in your municipality, including those that are also buying their natural gas through CCA.

## *Is CCA green?*

CCA localizes the decision-making over where to purchase our power and natural gas. Sustainable Westchester intends to select a bid that offers an entirely green portfolio. It is also the intention to source renewable power from New York State whenever possible and not to purchase any renewable energy credits (RECs) to fulfill the renewables requirement. This localization also opens the door for cities/towns/villages to explore the development of local renewable generation (i.e. community and/or rooftop solar, wind, high efficiency combined heat and power) integrated into the CCA procurement mix. This will create local green jobs, yield substantial savings in transmission costs, bolster resilience and reliability, and seriously shrink the community's carbon footprint.

## *Isn't renewable power more expensive than fossil fuel generation? How do I save money by buying green?*

Renewable power is getting cheaper all the time. Prices for solar panels have dropped 80% since 2008, and all indicators suggest the price of new renewable generation installed will reach grid parity (match current costs for traditional generation) by 2020. Even today the bargaining power of aggregation has enabled many U.S. communities to offer sub-utility rates on their 100% renewable options. Nearly half of the over 5 million CCA households/businesses purchase renewables as part or all of their procurement mix.

## *What if I just want the cheapest power, not necessarily the greenest?*

That choice will be left to each individual household/business. CCA customers will have multiple enrollment options to choose from. The lowest rate, likely fixed, will be the default, but there will also be a carbon-free option, and potentially a "light green" (~50% renewables) option as well.

## *What about ConEd/NYSEG? Where do they fit in?*

The existing utilities continue to deliver reliable power, maintain power lines, and respond to service outages. They will still provide the same customer service to all residents regardless of whether they are in the CCA program. They are required by law to do so. Customers will still receive only one bill each month, and it will still come directly from ConEd/NYSEG. The new bill will reflect the change in supplier and new, lower rate.

## *What is the financial responsibility for the municipalities or the County?*

# Westchester County Community Choice Aggregation Demonstration Program

There is no financial risk to local governments. Administration and operation costs incurred by the CCA program will be covered through a small fee paid by customers per kilowatt-hour. Compliant bids must save residents money after this administration fee has been calculated into the bid.

## *How will Sustainable Westchester go about purchasing the energy?*

Electricity and natural gas suppliers will be selected by a competitive bidding (RFP) process. Only bids that beat the average utility price over the last year or guarantee sub-utility rates 24/7 will be considered compliant bids. Compliant bids will be evaluated based on rates, fixed term length, carbon-free options (100% renewables, no nuclear), and strict credit requirements. Suppliers may bid on electricity, natural gas, or both. The winning supplier(s) will then negotiate a contract with Sustainable Westchester and the participating municipalities.

## *How is Sustainable Westchester qualified to manage that process?*

The organizational structure of Sustainable Westchester has been designed for just such a decision-making mechanism. The Board of Directors is made up of elected officials in Westchester County, and professionals in the sustainability sector (primarily energy). In addition, SW has assembled an Energy Procurement Committee consisting of experts in the field, each with vast experience in the New York supply markets. This committee will act in an advisory role, on a volunteer basis, throughout the process. Sustainable Westchester has also been openly soliciting feedback from every community they have visited to ensure that procurement decisions will sufficiently represent the interests of residents countywide.

No, Sustainable Westchester has assembled.

## *How is the Sustainable Westchester CCA program funded?*

As mentioned above, PSC has authorized Sustainable Westchester to collect a rate-based administration fee, which covers communications and outreach, customer service, support to municipalities, and legal fees. This fee will likely be a tenth of a penny per kilowatt-hour of electricity and half a penny per therm of natural gas. When the details are finalized, they will be fully disclosed so customers can see exactly where those fees are going. No other fees (i.e. per customer charge) will be collected. Sustainable Westchester is a not-for-profit organization and is forbidden from retaining any surplus revenue.

## *What other New York Counties/Communities are exploring CCA?*

As of February 2015, Westchester is the only county in the state authorized to implement a CCA program. However, the Public Service Commission and communities throughout New York are keeping a close eye on Westchester and plan to submit CCA proposals of their own, including Sullivan, Ulster, and Monroe Counties.

## *Will each municipality have to hire a consultant or broker to help them with the bidding process?*

No, Sustainable Westchester will be conducting the bidding process on behalf of all the participating municipalities in unison. The primary mission of Sustainable Westchester is to provide umbrella services such as this to all member municipalities.

## *Will the same ESCO be used for both electric and natural gas procurement?*

Maybe, it is the intention of Sustainable Westchester to release the RFP for both electric and natural gas simultaneously, in which case ESCOs will have the opportunity to submit bids for either or both.

## *How will account numbers and related information be kept confidential?*

Privacy has been and remains a top priority for SW, PSC, ConEd and NYSEG, and all participating municipalities. The procedure for cyber security and confidentiality will be a central focus of contract negotiations with the winning supplier(s) and the details will be made public at that time.



# Westchester County Community Choice Aggregation Demonstration Program

*Will the winning supplier be able to assign the contract to a new supplier?*

Only with the approval of Sustainable Westchester and the participating municipalities. This will likely be a mutually reflexive clause in the contract requiring approval of all other parties for any significant change to the agreement.

*Will customers have the option of direct billing instead of consolidated billing?*

No, we anticipate the first contract will almost certainly use consolidated billing, and that will be made explicit in the RFP.

*What happens if customers fail to pay their bills? Can the supplier force other customers (or municipalities) to pay for such losses?*

It will be up to the distribution utility, as usual, to collect on delinquent accounts. No other stakeholder (i.e. Sustainable Westchester, other customers, municipalities) will be held responsible.

*How will customers currently getting net metering credits be impacted?*

There will be no effect; customers with rooftop solar will continue to get paid net metering credits at the retail rate.

*Once terms of a draft contract have been worked out, will towns (or customers) have a chance to review it before their future energy procurement is tied to those terms?*

Yes. The draft contract will be presented to the municipalities, posted on their website, as well as the SW website.

*How about the RFP? Will it also be available prior to its release?*

Yes.

*What will be the form of input to the RFP and contract?*

Sustainable Westchester will hold a webinar or Google hangout to explain the details and solicit comments.

*If a customer opts out after the contract has taken effect, how will that effect their service?*

Service will not be interrupted whatsoever. The account will be transferred back to the utility after the following

*At the end of the first contract, will customers be informed that they may be switched to a new supplier, and then be given another chance to opt out?*

Yes. All participating households and small businesses will receive notification of the change along with the new price and all of the opt-out methods.

*Who covers the termination penalty should SW decide to terminate the contract prior to its end date?*

In that highly unlikely event, the city/town/village will be responsible for fulfilling the terms of the contract.

*Could board member assets be encumbered in any way should a lawsuit against SW occur?*

No. Sustainable Westchester has an insurance policy protecting against such an outcome.

## Mike Blau

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**From:** Glenn Weinberg <gtweinberg@gmail.com>  
**Sent:** Wednesday, June 24, 2015 2:56 PM  
**To:** gtweinberg@gmail.com  
**Subject:** Re: Community Choice Aggregation Local Law  
**Attachments:** CCA\_draft\_legislation\_06-05-15.docx; TB 2015 0527 reso Approve Community Choice Aggregation.pdf

I hope you all have had a chance to review the CCA local law we've prepared. I'm attaching again just in case. I also wanted to reinforce that the law is designed to authorize the municipality's participation, but not commit to join upon passing.

Municipalities must pass a resolution (sample attached) in conjunction with the law if they intend to participate in the first round.

So if you haven't yet done so, Sustainable Westchester is encouraging municipalities to schedule a public hearing on the local law at the earliest possible meeting. We also encourage Boards to vote on the law and the accompanying resolution that same night if they feel comfortable doing so.

Once again, please feel free to call anytime with questions.

Glenn Weinberg  
Sustainable Westchester  
646 785-7204

> On Jun 15, 2015, at 2:22 PM, Glenn Weinberg <gtweinberg@gmail.com> wrote:

>

> Sustainable Westchester has prepared a local law to authorize Westchester municipalities to participate in the Community Choice Aggregation (CCA) demonstration program. It does not, however, commit the municipality to sign a contract in any way. It simply creates a local legislative authority to do so at some point in the future by way of resolution.

>

> For those of you who have not scheduled Sustainable Westchester in to your municipality to present the particulars of the program, CCA is an energy procurement model that allows munis or counties to aggregate the total demand of their residents for electricity and natural gas to negotiate a lower rate. Therefore, rather than the existing distribution utility (i.e. NYSEG, ConEd) also being the default supplier, there would be a new default supplier to be chosen by the municipalities and Sustainable Westchester through an RFP process.

>

> The law is designed to give municipalities maximum flexibility over how and when they participate, and we are encouraging Boards/Councils to review and schedule a public hearing on the law whether they intend on pursuing adoption right away or not. Again, the law will build flexibility into your code and how you act upon that flexibility is entirely up to you.

>

> We also encourage inviting Sustainable Westchester (Mike Gordon and myself) to come present to your Board/Council at the earliest opportunity so we can explain the opportunity in such a program and how it will save your residents money on their energy bills.

>

> Please feel free to email or call with any questions or to schedule a presentation at your next meeting.

>

> Thanks!

>

> Glenn Weinberg  
> Sustainable Westchester  
> 646 785-7204

> <CCA\_draft\_legislation\_06-05-15.docx>

**RESOLUTION AFFIRMING THAT THE TOWN BOARD OF THE TOWN OF GREENBURGH SHALL ENTER INTO AN AGREEMENT TO PARTICIPATE IN A COMMUNITY CHOICE AGGREGATION (“CCA”) PROGRAM THROUGH SUSTAINABLE WESTCHESTER, INC.**

**WHEREAS**, Sustainable Westchester, Inc., a not-for-profit organization now comprised of over forty municipalities in Westchester County, sought approval of a demonstration community choice aggregation (“CCA”) program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to procure energy supply from energy service companies (“ESCOs”) for the residents of the municipalities, and

**WHEREAS**, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first community choice aggregation (“CCA”) pilot program in New York State, which allows Sustainable Westchester to put out for bid the total amount of natural gas or electricity being purchased by local residents or small businesses, and

**WHEREAS**, the program is intended to provide consumers with the ability to lower their overall energy costs, and

**WHEREAS**, the potential benefits of CCA programs include price stability for a fixed contract term, lower prices, more favorable contract terms, and the ability to design a program that reflects local preferences and needs, including a preference for cleaner power sources, and

**WHEREAS**, the Westchester pilot program is intended to include residential and small non-residential customers, and to permit the aggregation of both electric and natural gas purchases, and

**WHEREAS**, Sustainable Westchester, Inc. will issue a request for proposals to suppliers to provide energy to participants, and will then award a contract, and

**WHEREAS**, Sustainable Westchester, Inc. or the Town will request individual customer data from the utility, and the selected supplier will then notify the bundled customers of the contract terms and the customer’s opportunity to opt-out of the program within twenty (20) days;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Greenburgh shall enter into an agreement to participate in a Sustainable Westchester program for its residents and business consumers who are not currently purchasing electricity from an energy service company (ESCO), only if: 1) the default price is guaranteed to be consistently less than the utility price for the same period; or 2) the default price is fixed at a level that is less than the average utility price for the same commodity, for the same customer class, over the preceding twelve month period; or 3) the default price is at first set at a level that is less than the average utility price for electricity, for the same customer class, over the preceding twelve month period, and only floats upward by less than twenty-five percent (25%) of the price increases implemented by the utilities, and

**BE IT FURTHER RESOLVED** that the Town agrees to notify residents and business owners eligible for inclusion in a manner that the Town deems effective and efficient about the program in advance of the program’s implementation, and

**BE IT FURTHER RESOLVED** that based upon the text and prior interpretations of the General Municipal Law (“GML”), a municipality may participate in a Community Choice Aggregation (“CCA”) program without undertaking the referendum requirement of GML § 360, which applies only to the

construction, leasing, purchasing, acquisition, use or ownership of a “public utility service” as defined in the GML.

**BE IT FURTHER RESOLVED,** that the Town Supervisor of the Town of Greenburgh is hereby authorized to execute any and all documents to give effect to this resolution.

Revised: 5/21/2015

## LOCAL LAW NO. – 2015

### A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM IN THE VILLAGE OF TARRYTOWN

**Section 1.** The Code of the Village of Tarrytown is hereby amended by adding a new Chapter 119, entitled “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM,” to read as follows:

#### ARTICLE I

##### **§1. Legislative Findings; Intent and Purpose; Authority.**

- A. It is the policy of both the Village of Tarrytown and the State of New York to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for residential and Small Commercial customers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation, which allows local governments to determine the default supplier of electricity and natural gas on behalf of its residential and Small Commercial customers.
- B. The purpose of this CCA Program is to allow participating local governments including the Village of Tarrytown to procure energy supply service for their residential and Small Commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This Chapter establishes a program that will allow the Village of Tarrytown to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.
- C. The Village of Tarrytown is authorized to implement this COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0564, Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, Order Granting Petition in Part (issued February 26, 2015) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0564 (collectively, the “Order”). Order shall also mean orders of the Public Service Commission related to State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2104) to the extent that orders related to Case No. 14-M-0224 enable actions by the Village of Tarrytown not otherwise permitted pursuant to orders related to Case 14-M-0564; provided, however, that in the event of any conflict between orders from Case No. 14-M-0564 and orders from Case No 14-M-0224, orders from Case No 14-M-0564 shall

govern the CCA Program.

- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM.

## **§2. Definitions.**

For purposes of this Chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this Chapter shall have the meanings employed in the State of New York Public Service Commission’s Uniform Business Practices or, if not so defined there, as indicated below:

**Bundled Customers** – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.

**Small Commercial** - Non-residential customers as permitted by the Order.

**Community Choice Aggregation Program or CCA Program**– A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the Village.

**Distribution Utility** – Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

**Public Service Commission** – New York State Public Service Commission.

**Suppliers** – Energy service companies (ESCOs) that procure electric power and natural gas for Bundled Customers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

**Sustainable Westchester** – A not-for-profit organization comprised of member municipalities in Westchester County, New York.

## **§3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.**

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Village of Tarrytown, whereby the Village shall work together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Village’s role under the CCA Program involves the aggregating of the electric and/or natural gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.
- B. The Village’s purchase of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with Suppliers on behalf of participating residential and Small Commercial customers.
- C. In order to implement the CCA Program, the Village will adopt one or more resolutions that outline the process of and conditions for participation in the CCA Program, including

but not limited to signing a contract for a compliant bid with one or more Suppliers, all as consistent with the Local Law and the Order.

- D. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

#### **§4. Procedures for Eligibility; Customer Data Sharing.**

- A. As permitted by the Order, the Village may request from the Distribution Utilities aggregated customer information by fuel type and service classification on a rolling basis.
- B. Sustainable Westchester, on behalf of the Village of Tarrytown, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.
- C. Sustainable Westchester or the Village if the Village so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.
- D. Sustainable Westchester or the Village if the Village so chooses, and the selected Supplier will then notify Bundled Customers of the contract terms and their opportunity to opt out of the CCA Program.
- E. In accordance with and for purposes of the Order, the existing Distribution Utility, Consolidated Edison Company of New York, Inc. will provide to Sustainable Westchester aggregate and customer-specific data (including usage data, capacity tag obligations, account numbers, and service addresses) of all Bundled Customers in the Village not currently enrolled with an ESCO.
- F. Sustainable Westchester and the Village, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

#### **§5. Choice of Energy Supplier; Opt-Out Notice and Procedure.**

- A. The Village or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Village's decision to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to opt out of the CCA Program.
- B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA Program and the material provisions of the ESCO contract, identify the methods by which the customer can opt out of the CCA Program, and provide information on how the customer can access additional information about the CCA Program.
- C. The opt-out period shall be twenty (20) days.
- D. CCA Program Bundled Customers, upon enrollment, will receive a welcome letter that will explain the customers' options for canceling the enrollment if they believe they were enrolled incorrectly or otherwise decide to withdraw from the CCA Program in favor of

another Supplier. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated Three (3) Day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

**§6. Verification and Reporting.**

- A. Sustainable Westchester shall be responsible for filing an annual report with the Public Service Commission, which identifies the number of customers enrolled in the CCA Program by municipality and customer class, the number of customers who returned to utility service or service with another Supplier during the reporting period, and the average cost of commodity supply by month for the reporting period.

**Section 2.** This local law shall take effect upon filing with the Secretary of State.



RESOLUTION AWARDING THE 2015 CONTRACT  
FOR MILLING, RESURFACING, CURBING VARIOUS STREETS  
TO ELQ INDUSTRIES, INC.

WHEREAS, the Village of Tarrytown, in a cooperative relationship with the Villages of Ardsley, Dobbs Ferry, Elmsford, Hastings and Irvington, has solicited bids for the milling and resurfacing of various street, adjusting manholes, and concrete curbing in the Village of Tarrytown and the cooperating partner municipalities; and

WHEREAS, a public notice for this project bid was duly advertised in an official newspaper on July 6, 2015; and

WHEREAS, on July 29, 2015 at 11:00 a.m., at Irvington Village Hall all bids received were opened and the bids received are summarized below for the work in all of the partner Villages; and

<u>CONTRACTOR</u>	<u>BID AMOUNT</u>
ELQ Industries, Inc.	\$ 2,385,731.00
Montesano Brothers, Inc.	\$ 2,389,390.25
PCI Industries Corporation	\$ 2,501,430.00

WHEREAS, the Board of Trustees has appropriated \$400,000 in the Capital Budget for this work and also intends to utilize \$159,029.37 in New York State Consolidated Highway Improvement Program funding for this work; and

WHEREAS, in accordance with the contract, each partner municipality will separately authorize the Contract and be responsible for payment of services performed within their respective municipality directly to the contractor; and

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of Trustees of the Village of Tarrytown hereby awards the contract, for the work to be performed for the 2015 Milling, Resurfacing and Replacement of Curbing on various streets in the Village of Tarrytown to ELQ Industries, Inc., in accordance with their unit prices contained in their bid of July 29, 2015 for the work to be performed within the Village of Tarrytown and the other five Villages

**Contract 2015-12 Joint Paving  
Bid Tabulation**

JOINT BID (ALL VILLAGES)		Est. Qty.	Units	ELQ Industries, Inc.		Montesano Brothers Inc.		PCI Industries Corp.	
Item	Description			Bid Price	Extended Price	Bid Price	Extended Price	Bid Price	Extended Price
51A	Top Course	14,459	Tons	114.00	1,648,326.00	114.00	1,648,326.00	120.00	1,735,080.00
51M	Milling	110,545	SY	5.00	552,725.00	4.65	514,034.25	5.00	552,725.00
97	Concrete Curbing	2,325	LF	40.00	93,000.00	50.00	116,250.00	45.00	104,625.00
102HMA	Adjust MH/CB	191	EA	480.00	91,680.00	580.00	110,780.00	500.00	95,500.00
				<u>2,385,731.00</u>		<u>2,389,390.25</u>		<u>2,487,930.00</u>	

**BREAKDOWN BY VILLAGE:****VILLAGE OF ARDSLEY**

Item	Description	Est. Qty.	Units	ELQ Industries, Inc.	
				<u>Bid Price</u>	<u>Extended Price</u>
51A	Top Course	2,230	Tons	114.00	254,220.00
51M	Milling	19,255	SY	5.00	96,275.00
97	Concrete Curbing	-	LF	40.00	-
102HMA	Adjust MH/CB	-	EA	480.00	-
					<u>350,495.00</u>

**VILLAGE OF DOBBS FERRY**

Item	Description	Est. Qty.	Units	ELQ Industries, Inc.	
				<u>Bid Price</u>	<u>Extended Price</u>
51A	Top Course	2,450	Tons	114.00	279,300.00
51M	Milling	27,600	SY	5.00	138,000.00
97	Concrete Curbing	150	LF	40.00	6,000.00
102HMA	Adjust MH/CB	105	EA	480.00	50,400.00
					<u>473,700.00</u>

**VILLAGE OF ELMSFORD**

Item	Description	Est. Qty.	Units	ELQ Industries, Inc.	
				<u>Bid Price</u>	<u>Extended Price</u>
51A	Top Course	950	Tons	114.00	108,300.00
51M	Milling	4,870	SY	5.00	24,350.00
97	Concrete Curbing	1,775	LF	40.00	71,000.00
102HMA	Adjust MH/CB	6	EA	480.00	2,880.00
					<u>206,530.00</u>

**VILLAGE OF HASTINGS-ON-HUDSON**

Item	Description	Est. Qty.	Units	ELQ Industries, Inc.	
				<u>Bid Price</u>	<u>Extended Price</u>
51A	Top Course	2,000	Tons	114.00	228,000.00
51M	Milling		SY	5.00	-
97	Concrete Curbing		LF	40.00	-
102HMA	Adjust MH/CB		EA	480.00	-
					<u>228,000.00</u>

**VILLAGE OF IRVINGTON**

				ELQ Industries, Inc.	
Item	Description	Est. Qty.	Units	<u>Bid Price</u>	<u>Extended Price</u>
51A	Top Course	2,334	Tons	114.00	266,076.00
51M	Milling	18,441	SY	5.00	92,205.00
97	Concrete Curbing	-	LF	40.00	-
102HMA	Adjust MH/CB	45	EA	480.00	21,600.00
					<u>379,881.00</u>

**VILLAGE OF TARRYTOWN**

				ELQ Industries, Inc.	
Item	Description	Est. Qty.	Units	<u>Bid Price</u>	<u>Extended Price</u>
51A	Top Course	4,495	Tons	114.00	512,430.00
51M	Milling	40,379	SY	5.00	201,895.00
97	Concrete Curbing	400	LF	40.00	16,000.00
102HMA	Adjust MH/CB	35	EA	480.00	16,800.00
					<u>747,125.00</u>