

PARTICIPATION CONTRACT

BETWEEN

CHICAGO HOUSING AUTHORITY

AND

MP2 ENERGY NE LLC

This Participation Contract ("**Contract**") is made and entered into effective as of December 1, 2022 (the "**Effective Date**") with the commencement date on or about December 1, 2022 for the effective transfer and/or activation of accounts and associated commencement of electricity supply services (referred to as either the "**Service Date**" or "Estimated Start Date"), by and between Chicago Housing Authority (hereinafter referred to as the "**Customer**" or "**CHA**"), and **MP2 ENERGY NE LLC, the applicable licensed subsidiary**, a Texas Limited Liability Company with headquarters at 21 Waterway Avenue, Suite 450, The Woodlands, Texas 77380 (hereinafter referred to as "**MP2**" or "**Vendor**").

WITNESSETH:

WHEREAS, on or about November 13, 2018, the Chicago Transit Authority ("CTA"), pursuant to an open and competitive solicitation (Requisition No. B18OP03436 – Request for Proposals for the Purchase of Electricity) awarded to and executed with MP2 that certain Electricity Sales Agreement (Contract No. B18OP03436, as originally executed and thereafter amended or supplemented by CTA and MP2, the "**Master Agreement**", incorporated herein by reference as Attachment A), which permits entities to procure, order and purchase electricity supplies and integrally-related services in accordance with terms and conditions set forth in the Master Agreement;

WHEREAS, the **CHA**, in reliance upon the local government agency participation rights available under Illinois laws and in effect under the Master Agreement (Section 48), sought authorization and approval from the CTA to participate in the Master Agreement, which was approved by the CTA in its communication(s) to CHA in or around August, 2022 and incorporated herein by reference as Attachment B;

WHEREAS, the CHA and the Vendor desire to enter into this Contract to facilitate the procurement and purchase of electricity supply and related delivery and management services, as well as other related services by Vendor to the CHA and its Property Division, upon the same generally prevailing terms and conditions as established in the Master Agreement, except as specifically modified by the terms herein; and

WHEREAS, the undersigned representative of Customer is authorized, on behalf of Customer, to contract with Vendor for the supply and delivery of electricity supply and all integrally related services (e.g., storage, delivery, hedging, balancing and other supply-related management and administrative functions) in accordance with the terms of the Master Agreement and this Contract.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and promises herein stated and in conjunction with the cooperative agreement referenced, the parties hereto agree to the following terms and conditions:

1. **INCORPORATION OF MASTER AGREEMENT & OTHER TERMS AND UNDERSTANDINGS.** The purpose of this Contract is to allow the Customer to purchase electricity supply and their integrally related delivery services and other amenities from Vendor upon the regular and prevailing terms and conditions set forth in the Master Agreement. To that end, all rights and duties generally applicable to or reserved to CTA under the Master Agreement shall likewise be vested in the Customer for purposes of this Contract and all rights and duties generally applicable to or reserved to the Vendor under the Master Agreement shall likewise be vested in the Vendor for purposes of this Participation Contract. Furthermore, the Master Agreement is hereby incorporated by reference as if set forth herein in its entirety, including any and all subsequent amendments thereto. Furthermore, this Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transaction are merged into and superseded by this Contract and any effective transaction(s).

As required under the Master Agreement, this Contract shall have no effect (adverse or otherwise) upon the validity, duration or operation of the Master Agreement. Furthermore, to fully effectuate the independent performance, operation and administration of this Contract as a wholly separate agreement from the Master Agreement, this Agreement shall be construed by the Customer and the Vendor, and by any court, tribunal or other entity charged with enforcement or interpretation of this Contract harmoniously with the Master Agreement to the fullest extent practicable and with the stated intention of Customer and the Vendor that the each shall be construed to be consistent and harmonious with the other, and no specific conflict shall be implied or construed.

Additionally, any material clause or provision set forth in the Master Agreement which has an analogous or equivalent term or provision under law or regulation that would apply to the parties to this Contract, the equivalent law or provision shall be given full reasonable effect, without intending any material conflict or contradiction with the equivalent or comparable term, condition, law or regulation referenced in the Master Agreement.

2. TERM AND COMPENSATION.

The Term of this Contract is for the two-year period commencing from the Effective Date set forth above through December 31, 2024 (allowing for the completed supply and delivery of ordered electricity supplies or volumes during the customary billing cycles), or until the Services to be provided under this Contract are fully completed and accepted, whichever occurs last.

In consideration of the Vendor's performance and provision of the Services, goods, supplies and other related activities herein, the CHA shall pay the Vendor compensation in the total not-to-exceed amount of Nine Million Five Hundred Thousand and 00/100 Dollars (\$9,500,000.00) (hereinafter the "Total Compensation"). Pricing for electricity supplies, deliveries and related services and amenities, shall be subject to the same established catalog pricing, selection, discounts, rebates and other pricing terms established in the Master Agreement.

The Vendor agrees not to perform, and waives any and all claims for payment of work, materials, expenses, resources or other claims which would result in billings beyond this amount. It is mutually understood and agreed by the parties that the above agreed upon Total Compensation amount is the only compensation provided for in this Agreement and there will be no additional, costs, fees or other type of profit allowable or paid under this Agreement without an express written amendment to the Agreement authorizing said additional compensation, supplies or services. The Vendor acknowledges an affirmative duty to monitor its performance and billings to ensure that the scope of work is completed within the Total Compensation amount.

3. NOTICES.

All notices, requests, demands and other communications under this Contract shall be given in writing. Such notices shall be deemed to have been given when delivered in person or three (3) business days after being sent via certified mail and addressed to the appropriate party at its mailing address set forth below:

To Customer:	Chicago Housing Authority 60 E. Van Buren Street, 12th Floor Chicago, IL 60605 Attn: Chief Executive Officer
with a copy to:	Chicago Housing Authority 60 E. Van Buren Street, 12th Floor Chicago, IL 60605 Attn: Chief Legal Officer
To Vendor:	MP2 ENERGY NE, LLC 21 Waterway Avenue, Suite 450 The Woodlands, Texas 77380
with a copy to:	MP2 Energy NE, LLC (dba Shell Energy Solutions) c/o CT Corporation System 208 S. LaSalle St., Ste. 814 Chicago, IL 60604

4. **TERMINATION FOR CONVENIENCE.**

Either Party may terminate this Contract for convenience by providing the other party thirty (30) days prior written consent. Notwithstanding the foregoing, termination of this Contract pursuant to this Article 4 shall not affect, modify or terminate any prior order(s) or transaction(s) entered into by the CHA and Vendor under this Contract and/or the Master Agreement (including, without limitation, any fixed natural electricity orders or transactions that commit to the purchase of designated electricity volumes or supplies that are to be delivered or supplied during the term of this Contract).

5. **INSURANCE.**

Vendor and the CHA agree that Vendor's insurance obligations under the Master Agreement shall apply to this Agreement, and that the CHA shall be named as an "additional insured" to that same extent that the Chicago Transit Authority is so designated in the Master Agreement.

6. **EQUAL EMPLOYMENT OPPORTUNITY.**

Reserved.

7. **MBE/WBE/DBE PARTICIPATION/COMPLIANCE.**

Vendor and the CHA agree that Vendor's MBE/WBE/DBE obligations under the Master Agreement shall apply to this Agreement, and that the Vendor's MBE/WBE/DBE Utilization Plan, which is attached hereto as Exhibit C and incorporated by reference herein, shall apply for the administration of MBE/WBE/DBE compliance under this Agreement. This Section 7 shall not be applied, interpreted or construed to be in excess of or in conflict with Vendor's participation and compliance obligations under the Master Agreement.

8. **BUSINESS DOCUMENTS AND CERTIFICATIONS.**

Vendor has provided to the Customer various documentation, certifications and representations, including evidence of its authority to conduct business in the State of Illinois, including without limitation, registrations of assumed names or limited partnerships and certifications of good standing with the Office of the Secretary of the State of Illinois. Vendor's Affidavit and Vendor's Certifications and Representations of Offerors – Non-Construction Contracts (HUD Form 5369-C C), as well as its Contractor's Affidavit, are collectively attached hereto as Exhibit D and incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, Customer and Vendor have executed this Contract on the Effective Date.

MP2 ENERGY NE LLC

By: Kendall Aubert
Kendall Aubert (Nov 22, 2022 14:19 CST)

Title: SVP, Sales & Origination

Date: November 22, 2022

CHICAGO HOUSING AUTHORITY

DocuSigned by:
Sheila Johnson
02DBAECFF536465...

Title: Deputy Chief Procurement Officer

Date: 11/22/2022

Approved as to Form and Legality
Chicago Housing Authority
Office of General Counsel

Ellen Harris
7B3AB633EB5A499...

By: Ellen Harris

Title: Chief Legal Officer