

PARTICIPATION CONTRACT
BETWEEN
CHICAGO HOUSING AUTHORITY
AND
CONSTELLATION NEW ENERGY – GAS DIVISION, LLC

This Participation Contract (“**Contract**”) is made and entered into effective as of the 1st day of February, 2023 (“**Effective Date**”), by and between Chicago Housing Authority (hereinafter referred to as the “**Customer**” or “**CHA**”), and Constellation New Energy – Gas Division, LLC., a Kentucky Limited Liability Company with headquarters at 1310 Point Street, Baltimore, Maryland, 21231, and local corporate offices located at 20 N. Wacker Drive, Suite 2100, Chicago, Illinois 60606 (hereinafter referred to as “**Constellation**” or “**Vendor**”).

WITNESSETH:

WHEREAS, on or about April 14, 2022, the State of Illinois acting by and through its Central Management Services Division (“State of Illinois”), issued an open and competitive solicitation (Request for Proposals 22-416CMS-BOPM4-8-28106) for wholesale and wellhead natural gas supply and services, and pursuant to such competitive solicitation awarded to and executed with Constellation that certain Joint Purchase Master Contract (Contract No. 22-416CMS-BOPM4-P-41554), hereinafter the “**Master Agreement**”, incorporated herein by reference as Attachment A), which permits entities to procure, order and purchase natural gas 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 and in effect under the Master Agreement (“Participation – Section 1.2.5”), and sought and obtained authorization and approval from the State of Illinois and the Vendor to participate in the Master Agreement;

WHEREAS, the CHA and the Vendor desire to enter into this Contract to facilitate the procurement and purchase of natural gas supplies and related delivery and management services, as well as other related services by Vendor to the CHA and its Property and Asset Management Division, upon the same generally prevailing terms, conditions and prices 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 natural gas supplies 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.

The purpose of this Contract is to allow the Customer to purchase natural gas supplies 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, the Master Agreement is hereby incorporated by reference as if set forth herein in its entirety, including any and all subsequent amendments thereto.

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.

All rights and duties generally applicable to or reserved to State of Illinois under the Master Agreement shall likewise be vested in the Customer for purposes of this Contract. Furthermore, 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. 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 Initial Term of this Agreement is for the five (5) year period commencing from the Effective Date set forth above through January 31, 2028, or until the Services to be provided under this Agreement 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 Twenty Six Million and 00/100 Dollars (\$26,000,000.00) (hereinafter the “Total Compensation”). Pricing for natural gas 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 or upon delivery if sent via reputable overnight delivery service 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: Constellation NewEnergy – Gas Division, LLC
9400 Bunsen Parkway, Suite 100
Louisville, KY 40220
Attn: Contracts Department

with a copy to:

4. TERMINATION FOR CONVENIENCE.

Either party may terminate this Contract for convenience by providing the other party thirty (30) days prior written notice.

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 State of Illinois 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 8 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), 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.

**CONSTELLATION NEW ENERGY –
GAS DIVISION LLC**

By: *Amanda Stewart* ^{AK}
Name: Amanda Stewart
Title: Vice President – Retail Ops
Date: January 20, 2023

CHICAGO HOUSING AUTHORITY

DocuSigned by:
Sheila Johnson
By: Sheila Johnson
Name: Deputy Chief of Procurement
Title: 1/23/2023
Date:

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

Ellen Harris
By: Ellen Harris
Title: Chief Legal Officer