



**CITY OF BEACON, NEW YORK
VIRTUAL MEETING**

Mayor Lee Kyriacou
Councilmember Amber J. Grant, At Large
Councilmember George Mansfield, At Large
Councilmember Terry Nelson, Ward 1
Councilmember Air Rhodes, Ward 2
Councilmember Jodi M. McCredo, Ward 3
Councilmember Dan Aymar-Blair, Ward 4
City Administrator Chris White

**March 29, 2021
8:00 PM
City Council Agenda**

Call to Order

Pledge of Allegiance

Roll Call

Public Comment:

[Notice of Change in Public Meeting Location and Notice of Special City Council Meeting March 29, 2021](#)

Reports

Local Laws and Resolutions:

1. [Resolution to Adopt the City of Beacon Police Reform and Modernization Collaborative Plan](#)
2. [Resolution Declaring Intent To Continue the City of Beacon's Community Choice Aggregation \(CCA\) Program by Continuing to Offer Electricity Supply and Incorporating Opt-Out Community Distributed Generation](#)

2nd Opportunity for Public Comments:

Adjournment:

City of Beacon City Council Agenda
03/29/2021

Title:

Notice of Change in Public Meeting Location and Notice of Special City Council Meeting March 29, 2021

ATTACHMENTS

Notice of Change in Public Meeting Location and Notice of Special City Council Meeting March 29, 2021



NOTICE OF CHANGE IN PUBLIC MEETING LOCATION

PLEASE TAKE NOTICE, that effective immediately and based upon notices and health advisories issued by Federal, State and Local officials related to the COVID-19 virus, the City Council will not hold in-person meetings. Until further notice, all future City Council meetings (including public hearings) will be held via videoconferencing, as permitted by the NYS Open Meetings Law. Due to public health and safety concerns, the public will not be permitted to attend at the remote locations where the City Council members will be situated. The public, however, will be able to fully observe the videoconference City Council Workshop at

<https://us02web.zoom.us/j/87695876609?pwd=STRZb0Mrc1Y4cDBZaWVvTjRFVUZtUT09>

Webinar ID: 876 9587 6609 Passcode: 184083. To the extent internet access is not available, the public can attend via telephone by dialing + 1 929 205 6099 and entering Webinar ID: 876 9587 6609 Passcode: 184083. The City Council's agenda is available online in advance of meetings at <https://www.beaconny.gov/index.php/agendas-minutes/>

PLEASE TAKE FURTHER NOTICE, that the City Council will be holding a Special City Council Meeting immediately following the City Council Workshop in order to vote on the Draft Police Reform and Modernization Plan and on the City's Community Choice Aggregation Program. The Special City Council Meeting will take place on the same Zoom link as the City Council Workshop preceding it. Once a member of the public has logged onto the City Council Workshop, they will also be able to view and participate in the City Council Special Meeting.

PLEASE TAKE FURTHER NOTICE, that the public will be able to fully observe the videoconference meeting and comment during the designated public comment period of the Special City Council Meeting. To the extent internet access is not available, the public can attend and comment via telephone by dialing + 1 929 205 6099 and entering the Webinar ID: 876 9587 6609 Passcode: 184083. The public can email written comments or questions for the City

Council's Special Meeting by 5pm on the day of the meeting addressed to cityofbeacon@beaconny.gov. Any member of the public who has questions should contact the City Administrator in advance of the meeting at 845 838 5010 orcwhite@beaconny.gov.

PLEASE TAKE FURTHER NOTICE, that any Executive Session of the Council will be initiated with the Council first convening on the public videoconferencing site, and then adopting a motion to go into Executive Session.

PLEASE TAKE FURTHER NOTICE, that the City Council Workshop and City Council Special Meeting of Monday, March 29, 2021 at 7:00pm can be accessed live at <https://www.youtube.com/channel/UCvPpigGwZDeR7WYmw-SuDxg>

City of Beacon City Council Agenda
03/29/2021

Title:

Resolution to Adopt the City of Beacon Police Reform and Modernization Collaborative Plan

ATTACHMENTS

[Resolution to Adopt the City of Beacon Police Reform and Modernization Collaborative Plan](#)

[City of Beacon Police Reform and Modernization Collaborative Plan](#)

CITY OF BEACON
CITY COUNCIL

Resolution No. _____ of 2021

RESOLUTION TO ADOPT THE CITY OF BEACON POLICE REFORM AND
MODERNIZATION COLLABORATIVE PLAN

WHEREAS, on June 12, 2020, Governor Andrew Cuomo signed New York State Executive Order 203 directing local governments to develop a reform plan to “eliminate racial inequities in policing, to modify and modernize policing strategies, policies, and procedures, and practices, and to develop practices to better address the particular needs of communities of color to promote public safety, improve community engagement and foster trust;” and

WHEREAS, in developing such reform plan, Executive Order 203 further required that local governments perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices to address the particular needs of the community served by the police agency; and

WHEREAS, if a plan is not adopted by the City Council by April 1, 2021, the State Director of the Division of the Budget is authorized to withhold future appropriated State or federal funds for which the City of Beacon would otherwise be eligible; and

WHEREAS, in compliance with Executive Order 203, the City of Beacon Diverse Police Reform Planning Committee (the “Committee”) was created to conduct a comprehensive review of the policies and procedures of the Police Department and develop and plan to improve them in order to foster fairness and to address any racial bias and disproportionate policing of communities of color; and

WHEREAS, the Committee was comprised of members of the Police Department, members of the community, interested non-profit and faith-based community groups, a representative from the District Attorney’s Office, a representative from the Public Defender’s Office, a representative from the School District, City staff members and local elected officials; and

WHEREAS, the Committee met multiple times over the last few months, reviewed the needs of the community, evaluated the Police Department’s current policies, practices and procedures, listened to public input, and developed a draft reform plan with recommended action items to be presented to the public and approved by the City Council; and

WHEREAS, the City's objective throughout the police reform process was to enhance the processes and procedures of the City of Beacon Police Department, through a mutual exchange of ideas and eliminating any unintentional biases or blind spots that may be present; and

WHEREAS, on March 15, 2021, the draft Police Reform and Modernization Collaborative Plan was offered for public comment to all citizens of the City of Beacon at a City Council meeting.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Beacon hereby adopts the City's Police Reform Plan; and

BE IT FURTHER RESOLVED, that the City Council hereby directs the City Clerk to transmit a certified copy of this Resolution and the adopted Police Reform and Modernization Collaborative Plan to the Director of the Division of the Budget to affirm that the City of Beacon has complied with the requirements of New York State Executive Order 203 and followed all guidance issued by the director of the Division of Budget.

Resolution No. ____ of 2021			Date: <u>March 29, 2021</u>				
☐ Amendments						☐ 2/3 Required	
☐ Not on roll call.			☐ On roll call			☐ 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Amber Grant					
		Air Rhodes					
		Dan Aymar-Blair					
		Mayor Lee Kyriacou					
Motion Carried							

City of Beacon

Police Reform and Modernization Collaborative Plan



In Response to Governor Andrew Cuomo's

Executive Order 203

March 2021

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INTRODUCTION

Anyone who has visited or lived in Beacon knows how unique our city is. Its diversity, tolerance, small businesses, physical beauty, and rich cultural offerings have all helped create a strong and promising community.

But Beacon is also part of the national dialogue on policing, politics, racism, and justice. Killings by police in 2020 led to ongoing marches and pointed debates that raised urgent questions about community safety and equal rights. Expressions of distrust and anger were unavoidable, such as competing protests on both sides of the street in front of City Hall in July that nearly spilled over into a violent confrontation – as they did all over the country.

Along with the great suffering and fear from COVID-19, over the past year Beacon also confronted larger challenges to the future of its communities' well-being. On one level, the fast growth and influx of people has placed additional pressure on Beacon's diversity and the economic security of many of its residents. Our vibrant Main Street, made up almost entirely of small local businesses, was particularly vulnerable to the quarantine. Students endured great disruption to their educations, and everyone's mental health became more imperiled.

But Beacon has met those challenges with its strong social capital: Our city is large enough to have a wide range of communities but is also small enough to connect them. Responding to the compounding crises, groups focusing on food, youth, rights, and many other needs quickly formed and provided critical support. All this mutual aid helped re-affirm our mutual respect. At the protest in July, in fact, people on both sides of the street recognized their neighbors, teachers, students, and acquaintances on the other. Despite our differences, the City avoided the outbreaks of violence witnessed in most other cities, large and small.

That strength has also fueled police reform in Beacon. Since 2015, the community has engaged in a continuous effort to improve policing. Through meetings, proposals, and dialogue, we have been forging a range of mutually reinforcing policies and programs. Our resilient network of social capital has fueled and will continue to fuel this constructive change. As Beacon's Executive Order 203 Police Reform Committee, we worked to channel that energy and diversity. As a product of our commitment, we offer this Plan as a roadmap for the future security of our city's communities.



Mark Ungar
Committee Co-Chair
Police Reform Committee



Pastor John Perez
Committee Co-Chair
Police Reform Committee

EXECUTIVE SUMMARY

Following the high-profile killing by police of George Floyd in May 2020, communities across the nation confronted painful questions about the ongoing role of racial bias in policing and faced demands for reforms and action to address the inequalities and racial bias in policing. While many of the nation's largest police departments became the focus of protests and reform efforts, smaller communities such as the City of Beacon also experienced a new civil rights movement, calling for a reconsideration and reform of public safety and policing. In 2020, the community hosted nineteen peaceful protests organized by Beacon 4 Black Lives ("B4BL") and other organizations and engaged in a robust debate about the structure and role of policing in our small city.

The protests and calls for reform in 2020 were not the first time that the Beacon Police Department had come under scrutiny and pressure for reform. In response to chronic concerns, the Department became the focus of a U.S. Department of Justice ("DOJ") investigation starting in 2004 and ending in 2010. During the investigation and subsequent oversight by the DOJ and U.S. Attorney's Office, the Beacon Police Department reexamined and reformed many of its policies and procedures, which allowed this small department to adopt early on some of the progressive reforms now being discussed in much larger departments, including significant revisions to the *Use of Force Policy*. In addition to DOJ mandated reforms, the community discussed and implemented other reforms starting again in 2015.

Following Governor Andrew Cuomo's issuance of Executive Order 203, the Beacon community began to further examine its policing policies and build upon the earlier reforms. Over the past months, the City has convened an Executive Order 203 Police Reform Committee ("Police Reform Committee") composed of civic organizations, faith-based groups, local activists, police officers, local and County officials, and interested citizens. Beacon has hosted multiple meetings over the past half year for the public to raise concerns and share ideas on the future of policing in the City of Beacon.

Throughout this process and during the 2020 protests, there has been an impressive level of respect between the community and the police, even when there have been significant differences in opinion. The overall civility and respect throughout Beacon's latest debate on policing is a testament to the strength and tolerance of our progressive community as well as the openness to continued change. After months of meetings, the Police Reform Committee came back with a series of recommendations that are contained in this Plan. Some of these recommendations are already being implemented while others will take more time and consideration to implement.

As a result of this process, the City of Beacon has laid out a goal and tangible steps towards addressing the legacy of racially-biased policing and move towards a more equitable, progressive, and sustainable model of public safety and policing.

A. BEACON POLICE REFORM PLANNING COMMITTEE

On June 12, 2020 Governor Andrew Cuomo issued Executive Order 203- New York State Police Reform and Reinvention Collaborative (“EO 203”). EO 203 stated,

“WHEREAS, beginning on May 25, 2020, following the police-involved death of George Floyd in Minnesota, protests have taken place daily throughout the nation and in communities across New York State in response to police-involved deaths and racially-biased law enforcement to demand change, action, and accountability; and... Each local government entity which has a police agency operating with police officers as defined under 1.20 of the criminal procedure law must perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color.

Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program.”

Following the issuance of EO 203, the City of Beacon sponsored several Community Forums on Policing and Public Safety, which were held on June 20, November 21, and December 19, 2020. The Beacon City Council passed a resolution in August 2020 requiring a plan for evaluation and rethinking of community public safety services. This resolution, attached in Appendix 1, was part of an ongoing police reform agenda to improve transparency, increase community engagement, review critical policies and training, evaluate the public complaint process, examine the structure of law enforcement, and consider non-police alternatives. In 2020, this led to several immediate changes, such as requiring police officers to provide business cards in interactions with the public and putting a complaint form on the City’s website.

The City participated in the Dutchess County Police Reform and Modernization Collaborative¹ and later formed its own Police Reform Planning Committee (the “Committee”). The Committee was appointed by Mayor Lee Kyriacou and was composed of community leaders and stakeholders tasked to provide input into the City’s effort at police reform and modernization. The City sought to build upon the primary goals laid out in the Dutchess County Policy Reform and Modernization Plan, which included the following:

- Building public trust and legitimacy by enhancing police connection to the community
- Ensuring accountability, transparency, and professionalism in law enforcement
- Preventing violence and examining modern policing strategies
- Implementing criminal justice diversion programs
- Addressing mental health, homelessness, and addiction

The Committee was co-chaired by Mark Ungar and Pastor John Perez. Biographies of members of the Committee are as follows (in alphabetical order):

Deborah Felder is a New York City Department of Education guidance counselor and resident of Beacon who is involved in the local NAACP chapter. Prior to participating in the Reform and Modernization Collaborative, Felder was a member of the 2020 City of Beacon Police Chief Search Committee.

Lieutenant Thomas Figlia is a Lieutenant of the Beacon Police Department, having joined as a Patrol Officer in 2006. Figlia is the department’s training coordinator and is responsible for policy development and implementation and for accountability systems such as the body camera program. Figlia is a graduate of Beacon High School and Marist College.

Chief Sands Frost is Chief of the Beacon Police Department, having joined as a Patrol Officer in 1983, and progressing as Detective, Patrol Sergeant, Detective Sergeant, and Patrol Lieutenant. Frost was appointed Acting Chief in August 2020, and after an in-depth search, was appointed Beacon’s Police Chief in January 2021. Frost served as a Gunnery Sergeant in the U.S. Marine Corps Reserve and was activated for Desert Storm and after 9/11. Born and raised in Beacon, Frost holds an Associate Degree in Criminal Justice from SUNY Dutchess.

Kara Gerry is Bureau Chief of the Dutchess County Public Defender’s Office. Gerry graduated from Our Lady of Lourdes High School, Marist College and Pace Law School, and lived in Beacon in 2012-2017. Gerry has been practicing criminal law for about 15 years, as a prosecutor for three years and a defense attorney for twelve. Gerry was assigned to represent clients in Beacon City Court in October of 2020.

Addison Goodson was born in Queens, N.Y. and is a poet and activist with experience as a Community Organizer with Jobs With Peace in Los Angeles, as an ombudsperson in Santa Monica and a volunteer with many political campaigns for Progressive politicians. Goodson has lived in Beacon for sixteen years, and is a member of the Beacon Human Relations Commission.

¹ <https://www.dutchessny.gov/County-Government/Police-Reform-and-Modernization-Collaborative-Workgroups.htm>

Dr. Matthew Landahl, Ph.D. is Superintendent of the Beacon City School District. Landahl has served as a fourth-grade teacher in the Baltimore City Public Schools as part of the Teach for America Corps, an assistant principal in Charlottesville VA, and Chief Elementary Officer, Chief Academic Officer and Deputy Superintendent in Ithaca NY. Landahl earned a Doctorate in Educational Administration from the University of Virginia. Landahl lives in Beacon.

Justice McCray is a lifelong Beacon resident, and an activist and community organizer with the group Beacon4BlackLives. McCray is a full-time circulation librarian and is currently invested in mutual aid/community safety projects such as the Beacon Community Fridge. McCray has formerly worked at independent businesses in Beacon and served on the Beacon Human Relations Commission.

Pastor John Perez leads the Faith Temple Church in Beacon and serves as Superintendent of the Hudson Valley Region District Churches. Pastor Perez desires to further impact our community with his ability to bring different voices and viewpoints to the table for transparent discussions. Perez has previously worked in banking and sales, and serves on various non-profit boards, Perez recently served on the Dutchess EO203 committee and the Beacon Police Chief Search Committee, and is chair of the Beacon Human Relations Commission.

Molly Rhodes works at Teach For America and served as a member of the 2020 City of Beacon Police Chief Search Committee. Rhodes has been a resident of Beacon since 2018 and lives with her partner and two children.

Giovanna Rogow is the Executive Director of the Maternal Infant Services Network of Orange, Sullivan and Ulster Counties (MISN), a Perinatal Network established in 1990 to improve birth outcomes and reduce ethnic and racial disparities leading to infant mortality, pre-term birth and low weight babies. Rogow is a member of the Beacon Human Relations Commission.

Samantha Sayegh is an Assistant District Attorney in Dutchess County and is assigned to the Justice Courts Bureau. Sayegh joined the District Attorney's office in 2019 after graduating from Marist College and Pace Law School. Sayegh handles the Beacon Court Criminal Calendar and prosecutes justice court cases, and teaches criminal justice at Marist College.

Brooke Simmons is a lifelong Beacon resident, and a founding board member of I Am Beacon. Simmons has served on the Beacon Recreation Committee, Beacon City Charter Commission, Spirit of Beacon Day Committee, and Beacon Centennial Committee. In 2015, Simmons co-led the community group Beacon Speaks Out, to discuss, identify, and commit to improvements in the Beacon Police Department.

Brent Chaim Spodek has been the rabbi of Beacon Hebrew Alliance since 2010. Before coming to Beacon Hebrew Alliance, Spodek served as the Rabbi in Residence at American Jewish World Service and the Marshall T. Meyer Fellow at Congregation B'nai Jeshurun in New York. Rabbi Spodek holds rabbinic ordination and a masters in philosophy from the Jewish Theological

Seminary. Spodek attended Wesleyan University and worked as a journalist in Durham NC. Spodek lives in Beacon and is a professor of environmental chemistry at Vassar College.

Mark Ungar is a political science and criminal justice professor in the doctoral faculty of the City University of New York (CUNY). Ungar is an advisor on police and judicial reform with the United Nations and has helped establish new police units, community policing, and other programs in eight Latin American countries. Currently Ungar is an environmental policing commissioner at Interpol; is writing security reform overhauls with democratic opposition blocs in two countries; and is co-directing policy efforts against US gun exports and deforestation in the Amazon Basin. Publications include five books and 40+ articles on policing, human rights, violence, and criminology. Ungar has lived in Beacon since 2004 and co-led Beacon Speaks Out.

Christopher White was appointed Beacon City Administrator in late January 2021. White previously served as Deputy Director of Planning for Ulster County and was as a senior aide to the late Congressman Maurice Hinchey for more than eleven years. White has a BA from New York University and an MPA from Rockefeller College at SUNY Albany.

After several remote meetings, the Committee identified ten primary areas of focus for reforming and reimagining the operations of the Beacon Police Department and community safety in the City of Beacon as a whole. Those areas were identified as follows:

- Community Safety
- Addressing Individual Needs
- Criminal Justice Alternatives
- Communications and Representation
- Incorporation of Police Officer Experiences and Recommendations
- Data Collection and Reporting
- A Police Department Reflecting Beacon's Diversity
- Police Structures and Patrols
- Accountability
- Youth Security, Education and Policing

After formulating the ten focus areas, the Committee divided into sub-committees for each area and met to develop specific recommendations. Several areas had significant overlap so recommendations from one sub-committee were sometimes incorporated into the category of another subcommittee. The subcommittees reported back to the Committee at its final meeting after which the written recommendations were compiled by the Committee Co-chairs.

In addition to the recommendations, this Plan includes a brief history of Beacon Police Department reform so that readers have an understanding of where the Department was and where it currently stands, as well as a review of current policies and procedures and recent changes. It then outlines recommendations of the Committee to provide a vision for community safety in Beacon in the future.

B. HISTORY OF BEACON POLICE DEPARTMENT REFORMS

As noted previously, the process of reform and reinventing policing in the City of Beacon has been an ongoing process for many years. In 2004, the United States Department of Justice (“DOJ”) and the U.S. Attorney’s Office for the Southern District of New York opened an investigation into the Beacon Police Department in response to numerous significant civilian complaints. This difficult process began a continuing effort by the City of Beacon and the Beacon Police Department to make the Department a modern, progressive, and full-service law enforcement agency, an effort which continues today.

As a result of the investigation and subsequent six-year oversight by DOJ, the leadership and culture of the Department were significantly reformed, and the Department was professionalized and accredited. The per capita spending on the Department in the period between 1998 and 2018 was also significantly reduced, making Beacon’s per capita spending on police the lowest of any city in the Hudson Valley as detailed in Appendix 2. While the Beacon Police Department continues to work diligently to stay compliant with federal and New York State law and current with law enforcement best practices, the Department recognizes that further improvements in transparency, accountability, trust building, and alternatives to criminal justice are needed.

The DOJ investigation was concluded in 2010 and while it found no violations of law, it did find numerous policies and procedures that were in need of substantial updates and improvement. Technical assistance letters were issued by the DOJ, to which the Beacon Police Department agreed. The changes required by DOJ included the following:

- Revise use of force policy to emphasize verbal de-escalation techniques, and specifically prohibit the use of the carotid hold² absent exigent circumstances
- Specifically limit the type of ammunition allowed and mandate the exact amount of ammunition officers must carry
- Revise its OC [pepper] spray policies to ensure that OC spray is appropriately used and that all uses are reported
- Revise its policies requiring the review and/or investigation of all uses of force beyond un-resisted handcuffing to be consistent as to the requirements for investigation and review of uses of force
- Develop standards for its vehicle pursuit/roadblock policy to clarify the circumstances in which pursuits should be authorized
- Implement a formal, structured, and consistent system for handling complaints from members of the public

The Beacon Police Department, under new leadership and the oversight of elected officials, methodically and successfully implemented the recommendations from the DOJ. By 2016, the DOJ and U.S. Attorney found the Department to be in substantial compliance and fully released

² A carotid hold is a restraint technique that involves an officer compresses the carotid arteries on the side of neck to restrict blood flow, which can lead to unconsciousness or death.

from any further monitoring. U.S. Attorney for the Southern District of New York Preet Bharara noted, "We are pleased that the Beacon Police Department has concluded a cooperative effort to improve its policies and procedures regarding use of force, review of officer conduct and citizen complaints so that they may better protect all of the people of Beacon."³

In conjunction with the process of updating specific policies and procedures to comply with the DOJ recommendations, the Beacon Police Department completely revised all of its policies and procedures in order to become only the third law enforcement agency in Dutchess County to achieve accreditation from the New York State Division of Criminal Justice Services ("DCJS"). A list of the Accredited agencies in Dutchess County is attached as Appendix 3.

Accreditation is a progressive and contemporary way of helping police agencies evaluate and improve their overall performance. It provides formal recognition that an organization meets or exceeds general expectations of quality in the field. Accreditation acknowledges the implementation of policies that are conceptually sound and operationally effective.

The New York State Accreditation Program became operational in 1989 and encompasses four principal goals:

1. To increase the effectiveness and efficiency of law enforcement agencies utilizing existing personnel, equipment and facilities to the extent possible;
2. To promote increased cooperation and coordination among law enforcement agencies and other agencies of the criminal justice services;
3. To ensure the appropriate training of law enforcement personnel; and
4. To promote public confidence in law enforcement agencies.

The Accreditation Program is comprised of a set of standards developed to further enhance the capabilities of an agency, and is divided into three categories. Standards in the Administrative section have provisions for such topics as agency organization, fiscal management, personnel practices, and records management. Training standards encompass basic and in-service instruction, as well as training for supervisors and specialized or technical assignments. Operations standards deal with such critical and litigious topics as high-speed pursuits, roadblocks, patrol, and unusual occurrences⁴.

Maintaining accreditation is an extensive undertaking which requires regular updates to policies and procedures in order to stay current with law enforcement best practices. A department's accreditation is reassessed by DCJS every five years, and the Beacon Police Department has been successfully reaccredited with both of its required reassessments.

In order to streamline this process and keep up with legal changes which are occurring at a more rapid pace than ever before, the Department contracted with Lexipol in 2017. Lexipol provides a web-based system of recommended policies and procedures which are regularly

³ <https://www.justice.gov/opa/pr/beacon-new-york-police-department-enters-agreement-united-states-reform-its-policies-and>

⁴ <https://www.criminaljustice.ny.gov/ops/accred/>

updated, by experts in the field, in order to stay compliant with changes to federal and State statutes, case law, and accreditation standards. These policies are specific to New York State and fully customizable. In using Lexipol, the Department does an exhaustive review of each recommended policy to ensure that it is compliant with accreditation standards and workable for our specific department and community. Legal updates are sent very regularly and quickly after they become law. The system also provides crucial documentation of the issuance and acknowledgement of policies and procedures which aids in accountability.

Despite the progress made by the Beacon Police Department over the past fifteen years or more, many in the community have called for additional reforms, such as increased transparency, implementation of more formal structures for regular community interaction to build trust and confidence, and structural and staffing changes to provide alternative models of community safety and well-being. As further described below in the Committee's recommendations, the City has and may consider a combination of ongoing reforms and also some restructuring. For instance, the City Council approved in its 2021 Operating Budget inclusion of funding for a behavioral health intensive case worker to help the Beacon Police Department address behavioral health issues outside of traditional policing methods.

Hope Not Handcuffs. In September, 2020 the City of Beacon Police Department became only the third department in Dutchess County to partner with the non-profit Hope Not Handcuffs to assist people who struggle with drug or alcohol addiction. Hope Not Handcuffs-Hudson Valley, a program of the Tri-County Community Partnership Inc., is aimed at bringing law enforcement, community organizations and volunteers together to find viable treatment options for individuals seeking help to reduce dependency with any substance including heroin, prescription drugs, and alcohol. When someone comes into the Beacon Police Department and asks to go to rehabilitation for substance addiction, a call will be made to an "Angel" volunteer from the Hope Not Handcuffs team who will come and actively seek out a treatment plan. Individuals suffering from addiction will instantly gain an advocate and a network of resources designed to lead them to success.

HR Director. In July 2020, The City of Beacon hired its first Human Resources Director. The HR Director has already assisted the Police Department in several ways:

- Reviewed Police Department hiring policy for procedural accuracy, fairness, and equity.
- Implemented a Whistle Blower Policy and a Domestic Violence Policy (Appendix 6 and 7), which were unanimously adopted by the City Council in January 2021.
- Served on the Police Chief Search Committee to ensure compliance with civil service and antidiscrimination, fairness, and equity guidelines.

Community Policing. The Chief of Police also increased the Department's foot patrols on Main Street beginning in 2020.

C. CURRENT POLICIES AND PROCEDURES

One of the requirements of Executive Order 203 was for police departments to evaluate and detail existing policies and strategies to address particular needs of communities served by the police departments and address racial bias and disproportionate policing of communities of color. As noted previously, the Beacon Police Department has already revised and updated many of its policies, which are outlined below as a foundation for understanding further proposed reforms.

1. Accountability Measures

The Beacon Police Department has worked to use technology to increase accountability and transparency in the conduct of its officers in public interactions. In 2009, the Department equipped all vehicles assigned to patrol officers with in-car camera systems and adopted a policy that requires regular review of footage by supervisors in order to enhance officer performance.

The Department was also among the first in the area to purchase and require body cameras for all officers. After a successful pilot period with a limited number of officers, body cameras were issued to all patrol officers in 2018. Due to technical issues with the older cameras, in late 2020, the Department secured all new generation body cameras and was able to expand the program to include patrol supervisors. Like the in-car camera systems, the body cameras are monitored on a regular basis by supervisors in addition to reviews of specific events. The Department also utilizes cameras covering most of Main Street, which provide an additional layer of review for officer responses on Main Street.

In addition to the use of the cameras to monitor and improve the performance of police officers, the Department also records all incoming telephone calls for service and officer radio transmissions. All interviews and interactions by officers following an arrest are similarly recorded and used both for review and evaluation. Finally, the Department utilizes Global Positioning Systems installed in police vehicles to monitor officer activity and response to calls for service. The use of such technology supported by policies that utilize the data collected help to provide a layer of accountability.

2. Use of Force Policies

The Beacon Police Department documents and reviews all incidents involving the use of force by its officers. The Department defines “use of force” much more broadly than the State of New York definition, considering any force beyond compliant handcuffing to constitute a use of force. During any interaction with the public in which a Beacon Police officer uses such force, a use of force report is required and an investigation into the incident is mandated.

Use of force investigations are conducted by the supervisor working at the time of the incident and include a thorough review of the officers’ accounts of the incident and a review of video

footage generated by the body camera and/or in-car camera as well as consideration of any other available footage or relevant evidence, such as cell phone videos by the public. An interview with the person on whom force was used and any possible witnesses in the area is also a required part of this investigation.

Following any use of force incidents, supervisors are also required to get medical attention for anyone who requests or appears to need it. The investigation by the supervising officer is then reviewed by the Department's use of force policy instructor, who is a uniformed Lieutenant, as well as by the Chief of Police. If the use of force meets the criteria for reporting to New York State, it is then reported as part of the Department's uniformed crime reporting. Like all of its policies, the Department's use of force policy is regularly updated to be in conformance with case law, statutes, and best practices. This use of force policy manual is available to the public on the City of Beacon website⁵.

Since at least 2010, the Beacon Police Department has required that officers who witness force that is clearly outside of policy intervene to stop it and that officers who suspect that a use of force may have been outside of policy, report it to a supervisor. The Department's use of force policy instructor regularly attends trainings to keep current on best practices. These trainings include instruction from the New York Division of Criminal Justice Services, Chief Mike Rinalli (retired), the former Chair of the Accreditation Council, and the Daigle Law Group, experts on use of force and internal affairs law. Beacon Police officers are retrained annually on the Beacon Police Department Use of Force Policy. This includes any updates to federal and State law and case law regarding the use of force, de-escalation training, information on medical considerations such as the prevention of positional asphyxia and death due to excited delirium, and the duty to intervene in excessive force.

3. Equipment

In 2020, at the direction of the Acting Chief and Mayor, the Beacon Police Department undertook a comprehensive review of its needs related to equipment, particularly in the area of lethal and non-lethal weapons. The Department determined that several weapons systems were outdated, incompatible with current department practices, or simply unnecessary. These included pistol caliber, fully automatic sub-machineguns and certain non-lethal gas and chemical delivery systems. Such equipment was then eliminated from the Department's inventory. On the other hand, the Department continues to utilize systems such as electronic control weapons and pepper spray which when used with training and discretion can reduce the potential need for deadly force or limit potential injury to suspects from traditional force methods. The Department has also avoided acquisition or procurement of more "militarized" equipment which has raised concerns in larger departments, such as armored tactical vehicles. Even though the Beacon Police Department has certain equipment for riot situations, the Department carefully evaluates situations to determine if such equipment is warranted and necessary, usually siding on having officers at demonstrations and other events using much less

⁵ <https://www.cityofbeacon.org/wp-content/uploads/2019/10/Use-of-Force.pdf>

imposing equipment than the types of riot gear that were regularly used by larger departments during the protests of 2020 resulting from the murder of George Floyd and others.

4. Training

The Beacon Police Department has a recent history of progressive training. All patrol officers are trained in a 40-hour Crisis Intervention Training (“CIT”) course, which helps to train officers to help persons with mental disorders and addictions to access medical treatment rather than place them in the criminal justice system. This evidence-based strategy has been found effective in reducing the risk of injury or death during emergency interactions between police and persons with mental illness.⁶

In addition to the CIT Training, the Department conducts regular in-service training on topics including Workplace Violence, Sexual Harassment, Use of Force Policy and Law, De-escalation Techniques, Administration of Narcan (to address opioid overdoses), CPR/AED, Defensive Tactics, Active Shooter Response, Blood-borne Pathogens, and Taser and OC spray (pepper spray) use. The Department is adding eight hours of Procedural Justice training and eight hours of Implicit Bias training for all officers for 2021.

Procedural Justice training focuses on how the police interact with the public. Procedural justice is based on four central principles: "treating people with dignity and respect, giving citizens 'voice' during encounters, being neutral in decision making, and conveying trustworthy motives." Research demonstrates that these principles contribute to relationships between authorities and the community in which 1) the community has trust and confidence in the police as honest, unbiased, benevolent, and lawful; 2) the community feels obligated to follow the law and the dictates of legal authorities, and 3) the community feels that it shares a common set of interests and values with the police.⁷

Implicit Bias Training addresses the automatic, and often unconscious, association that people make between groups of people, whether that be based on race or some other categorization, and stereotypes or preconceived notions about those groups. The focus is on unconscious thoughts or feelings that can influence our own actions and, particularly in the case of policing, our response to others’ actions. The combination of these trainings helps to ensure that police officers can respond to a wide variety of emergency situations while also reducing the risk of harm to officers and the public.

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Firearms Training Simulator training is being added to test and develop officers’ skills in using lethal violence only when absolutely necessary. These “shoot/ no shoot” and de-escalation

⁶ <http://jaapl.org/content/early/2019/09/24/JAAPL.003863-19>

⁷ <https://trustandjustice.org/resources/intervention/procedural-justice>

scenarios help to prepare officers to make wise decisions during difficult emergency situations through repeated practice and understanding of the situations. Additional hours are also being added to the Department's Defensive Tactics and Active Shooter Response training to better prepare officers through scenario-based training and will include scenarios in which officer must utilize verbal skills to de-escalate dangerous situations. Finally, the Department has added Disability Awareness training to better prepare officers to interact with and serve all members of the community, including persons with developmental disabilities whose actions are sometimes misinterpreted.

5. Complaints

The Beacon Police Department accepts complaints, questions, and criticisms about its officers through a number of different sources. Formal complaints can be filed using the Department's Civilian Complaint Form which is as of 2020 available online on the City of Beacon website⁸ and can be returned directly to the Department or turned in to the City of Beacon Human Relations Commission. Additionally, complaints may be made directly in person, or by telephone to police headquarters. Complaints may also be forwarded through third parties, such as members of the City Council, the Mayor, or the City Administrator. Anytime the Department's command staff is made aware of a complaint through any of these sources, it is treated and evaluated as a personnel complaint.

Sometimes members of the public come to police headquarters or call the Department after an interaction with an officer to seek an explanation of the interaction or the officer's actions. These types of complaints are usually resolved with such an explanation; however, if the person is unsatisfied or does not accept the explanation, their complaint would also be handled as a personnel complaint.

Once a personnel complaint is received, it will be investigated by a member of the command staff in the same manner that any other police investigation would be conducted, and a case report will be completed. All available means of collecting evidence, such as interviews with the complainant and officer involved, body cameras, in-car cameras, station and other surveillance cameras, etc., will be utilized when possible. If the investigation indicates that the officer acted appropriately and within Department policies, the officer will be exonerated. If there is insufficient evidence to substantiate the complaint, it will be considered unsubstantiated. If there is evidence substantiating the complaint and the officer is determined to have violated policy or procedure, the case will be turned over to the Chief of Police to make a determination as to what, if any, discipline is appropriate. This can range from verbal counseling to termination depending on the severity of the incident. In any case, the complainant will be contacted and told of the results of the investigation.

⁸ <https://www.cityofbeacon.org/wp-content/uploads/2019/10/civilian-complaint-form-fillable.pdf>

6. Transparency

In addition to the above-described complaint procedure, by which complainants receive a full explanation of the investigation and findings of their complaint, the Department is also seeking to increase transparency by publishing as of 2020 summaries of all of its releasable blotters on the City's website.⁹ These blotters provide data on the time of response, type of call, disposition of the call, and the primary officer involved. Starting in 2020, at the direction of the Acting Chief and Mayor, the Department also requires officers to provide people with their name and rank and business cards that explain how to make a complaint to the department or Human Relations Commission and to provide explanation for the reason for any stop, search or temporary detention.

⁹ <https://www.cityofbeacon.org/index.php/beacon-police-department-daily-blatter/>

D. POLICE REFORM PLANNING COMMITTEE RECOMMENDATIONS

The Beacon Police Reform Planning Committee developed recommendations in ten areas to further reform and reinvent policing in the City of Beacon, recognizing that a number of specific recommendations have already been implemented to varying degrees in the City of Beacon Police Department. The recommendations are broken down into general categories although some of them clearly overlap and correspond to one another. Some recommendations go beyond the bounds of the Beacon Police Department, but are included to provide a viewpoint on broader issues such as additional community programming.

1. Community Safety

The subcommittee that worked on the topic of “Community Safety” started by asking how our community could reimagine community safety in Beacon and develop feasible, practical changes in response. There were three specific recommendations.

a. Community Safety Plan. In order to strengthen the roles and responsibilities of all community members in providing safety and security within the City of Beacon, the City should conduct a comprehensive safety needs assessment to better understand the needs of the community. This assessment will be directed in a manner so that it addresses differences in the needs and community safety desires of different communities and neighborhoods so that areas of focus for officers patrolling those communities and neighborhoods can be tailored to those needs. This can be done through additional community surveys and meetings, as well as direct interactions between officers and members of the community. A goal would be to encourage non-law enforcement means of solving lower level, non-violent community problems, such as noise and minor neighbor disputes, through sources such as the Mediation Center of Dutchess County, local community organizations, or the Human Rights Commission.

b. Community Safety Officers. The Committee recommended the exploration of the possible of hiring volunteer citizen non-sworn neighborhood safety officers, who would convey citizen concerns to the Beacon Police Department, recommending improvements to public safety (e.g., street lighting improvements, graffiti removal, or enhanced recreational facilities), and accompany and learn from Beacon Police officers. The goals of this recommendation might be accomplished through the formalization of more frequent interaction and discussion between the Beacon Police Department and community organizations, which is discussed in other recommendations below.

c. De-Escalation Training. In order to help defuse volatile crisis situations, police de-escalation training can help police departments more fully realize their charge to “serve and protect.” The Committee recommended this training, which is also useful in helping to identify implicit bias and stereotyping. De-escalation training is already being conducted on a regular basis by the Beacon Police Department and should draw on models, such as DEAI (Diversity, Equity, Accessibility, and Inclusion). The Department also incorporates de-escalation training into its annual Use of Force training. Additionally, all officers receive 40 hours of Crisis Intervention

Training (“CIT”), which strongly focuses on de-escalation of persons in crisis, particularly those with mental illness. For this training to be effective, it must be woven into daily practice. The Department will start expanding other in-service, scenario-based trainings to incorporate focuses on opportunities for de-escalation. The Department will also consider how to best incorporate additional input from communities of color.

2. Addressing the Needs of Individuals

One of the most common and pressing individual needs that the Beacon Police Department and other law enforcement agencies confront is the lack of mental health services and support. Police responding to persons with mental health disorders has become a backstop in many cases for the shortage of federal and State resources to address mental health. The City and Beacon Police Department have taken some recent steps to help deal with this crisis, so some of the recommendation below are in the process of being developed and/or implemented.

a. Mental Health. In January of 2021, the Beacon Police Department received approximately twenty-five calls involving subjects suffering from mental health crisis or who are known to live with mental illness. The Committee recommends diligently documenting and reporting the number of such encounters, which the Beacon Police Department has already begun doing. Such data will be further enhanced once the Department brings on a Behavioral Health Intensive Case Worker, which is scheduled to begin in April 2021 (this is discussed further below.) The Committee highlighted that City of Beacon and Dutchess County resources for individuals with mental health issues lag behind those available for other challenges, such as substance abuse. The City of Beacon is home to a Dutchess County Behavioral Health Center and two supportive housing facilities for those suffering from mental illness, both of which have generated police calls over time. The Committee supported the City’s recent initiative to partner with Mental Health America of Dutchess County (“MHA”). This initiative has been piloted in the City of Poughkeepsie in 2020 with positive results reported thus far. The City hopes to hire this case mental health case manager in April 2021, which should help in responses to calls from person with mental health issues. MHA is well-connected with the network of support services available and can help people navigate these sometimes difficult to understand systems rather than have them repeatedly interact with the criminal justice system.

b. Crisis Intervention. The Beacon Police Department has had officers trained in crisis intervention through a partnership by the Dutchess County Department of Behavioral and Community Health and People, Inc., a non-profit mental health provider. This has allowed officers to be better equipped to interview people who have suffered a trauma or are suffering from a mental illness. Along with its experience with the county’s Mobile Crisis team, this training has led the Department toward adopting a more local service tailored to Beacon’s communities.

c. Social Worker. In addition to the behavioral health case worker discussed above, the Committee recommended future consideration of obtaining the services of a social worker to work in collaboration with the Department. Social workers have extensive training in working

with diverse populations and in helping them resolve individual and family problems. Just as police officers are experts in addressing issues of law enforcement, social workers are experts in resolving social problems that often bring individuals into encounters with the police. Formal and informal collaboration between police and social workers can help improve responses to emergencies. Such connections can be done through employment of social workers within a police department, or allowing them to team up with police officers to respond to calls, and to then follow up on cases. Other departments contract with a community-based organization that employs social workers and other clinicians, with certain 911 calls sent to the contracted service for response. Both approaches have had positive results throughout the nation, leading social workers to be more often called upon to respond to calls related to mental health, homelessness, substance use, and other matters not requiring a law enforcement officer.

d. Addiction Recovery. Since mid-2020, the Beacon Police Department has partnered with Hudson Valley *Hope Not Handcuffs* to get addiction rehabilitation services to those in need. Under this program, people suffering with addiction can be referred to assistance by the Department. Some individuals come to the police station and ask for help while others call the program directly from cards distributed by the Department. When individuals come to the station, the Department will then call *Hope Not Handcuffs*, which will send a trained volunteer to the station. The volunteer will meet with the person seeking rehabilitation, get them placed into a rehab within 24 hours, and set the person up with some essentials such as personal hygiene items. While the volunteers do not provide transportation, they will assist with setting up transportation. This program was publicized at its outset and officers carry cards with *Hope Not Handcuffs* information to be given to people who may be suffering with addiction. The program is part of the non-profit Tri-County Community Partnership and is run at no cost to the Department or the City, and the City will continue this important initiative.

3. Criminal Justice Alternatives

The Committee recommended continuing several alternatives that the City is currently undertaking and exploring additional initiatives in certain circumstances that avoid bringing individuals into the criminal justice system when other services, such as mental health services, could better address the root problems and avoid recidivism. Additionally, the Committee recommended continuing programs to support certain crime victims or establish restorative justice programs.

a. Advocates. The Beacon Police Department currently works with a member of the Dutchess County Domestic Abuse Response Team (“DART”), who is co-housed in the Department. This individual is an advocate for victims of domestic violence and sexual crimes who coordinates services and resources for victims. Additionally, to reduce recidivism among individuals living with mental illness and to minimize their involvement in the criminal justice system, the Beacon Police Department is in the process of partnering with Mental Health America of Dutchess County to provide an Intensive Case Manager. This case manager will help to address mental health crises in progress by being available to respond with officers and will provide accessibility and connection to professional services and programs for those in need. This case

manager will be available on a full-time basis and be co-housed in the police department. This will also help to address the often-repeated need expressed by those in the community for easy access to mental health services, many of which are based in Poughkeepsie, such as the county's Stabilization Center.

b. Law Enforcement Assisted Diversion. The Beacon Police Department, along with the City of Poughkeepsie Police Department, is currently exploring the implementation of a Law Enforcement Assisted Diversion ("LEAD") program through the Dutchess County Department of Behavioral and Community Health. Such a program would have county case managers work with law enforcement to identify those who have frequent contact with law enforcement stemming from needs such as addiction, housing instability, poverty, and/or mental illness. Case managers would then meet these individuals where they are and follow up to assist and encourage these individuals with getting services which could divert them away from the criminal justice system.

c. Mental Health Court Hub. The City is working with the Beacon City Court, the Dutchess County District Attorney's Office, and the Dutchess County Public Defender's Office to try to make Beacon City Court the site of a mental health court hub for the area. In Mental Health Courts ("MHCs"), eligible defendants are those living with a mental illness related to their current criminal justice involvement and whose participation would not create an increased risk to public safety. Being a hub would help Beacon expand protocols to refer individuals in need of mental health treatment so they can begin individualized treatment programs and have access to support services to ensure they do things such as take prescribed medication and receive transportation to appointments. MHCs also help with broader aims such as reducing recidivism and the frequency of police contacts for those living with mental illness and reducing the length of incarceration for those individuals for whom community-based treatment is more appropriate. MHCs provide judges with the ability and means to make more informed decisions by equipping them with the tools for more accurate assessments and making connections with appropriate treatment options. MHCs would help reverse the "criminalization" of mental illness, in which the behaviors associated with or caused by mental illness result in repeated contact with the criminal justice system.

d. Restorative Justice. As a matter of public policy, the City of Beacon is committed to the concept of restorative justice where it can be used as an alternative to traditional, punitive approaches to the criminal justice system. By bringing those together who commit criminal acts and those affected by them, restorative justice helps repair a community, address specific harms done, and strengthens bonds among people. The City, on its own, cannot implement these programs as it does not control this area of the justice system, but it will use its collective voice to advocate with the New York State Unified Court System, the Dutchess County District Attorney's Office, the Dutchess County Public Defender's Office, and the Dutchess County Office of Probation and Community Corrections to utilize restorative justice whenever available and appropriate. Some restorative justice services already offered by Probation and Community Corrections include: Empathy/ Letter of Apology Workshops, Community Service, Teen

Intervene, Interactive Journaling and Decision Points. The Mediation Center of Dutchess County also has a Restorative Justice Initiative that the City will investigate and consider.

4. Communications and Representation

Members of the public and the Beacon Police Department have expressed widespread interest in increasing communication and building relationships between residents and the Police. Throughout the past year and during the Committee's discussions and investigations, the idea of setting up forums and structures to connect officers with residents in multiple ways was highlighted repeatedly as something the City should prioritize for implementation. In order to increase opportunities for regular communication between the community and Police, the City should focus on the alternatives below.

a. Regular Community Meetings. The Beacon Police Department, local community leaders, and City officials should work together to hold quarterly public meetings with community members for the purpose of seeking input on policing practices, community needs, and desired structural reforms. These meetings should prioritize access to segments of the community historically impacted by disproportionate policing and will be held at locations and times recommended by residents to maximize opportunities for participation. The Committee stressed that the Police should work with local organizations to build new partnerships between the community and Police. The City of Beacon has a wide range of civic, social, and faith-based groups, and these should be engaged by the Beacon Police Department and City officials for assistance with these meetings, including scheduling, setting agendas, or hosting these meetings. Meeting spaces should be in locations where groups and communities already gather, including historically Black and Latinx churches, the Howland Library, and other businesses and community facilities used by local organizations.

b. Police Advisory Committee/Procedural Justice Committee. The City of Beacon should examine ways in which to provide community review and advice for the Beacon Police Department, e.g., the creation of a Police Advisory Committee/ Procedural Justice Committee ("PAC"). Proposed responsibilities for the PAC include:

- Working with the City and the Police Department to develop a clear roadmap for implementation which overviews reform initiatives in the works and fleshes out short- and long-term priorities (including year one goals).
- Leading the implementation of the roadmap's scope of work, utilizing expertise contained within the Committee, itself, and/or through partnerships with the City, the Police Department, and outside agencies.
- Making and developing specific recommendations for the development of equitable policing practices, policies, and strategies.

- Acting as the primary body to organize and collect general public suggestions and questions about the City's public safety work (not including specific Police complaints), through structured surveys, community-police meetings, and ongoing feedback.
- Working with the City and Police Department to determine specific data for tracking, methods for capturing said data, developing recommendations for ongoing research, and establishing reporting protocols.
- Providing the City Council and the general public with regular status updates on the implementation of elements of the Beacon's overall police reform efforts.

The PAC would be focused on making recommendations for the development of equitable policing practices and strategies. It could examine traffic stop, arrest, and other Police related data as well as community policing practices and community input in making these recommendations. Additionally, input from the committee could be sought before any policy or procedure changes in the Beacon Police Department that would substantially impact members of the community, unless such policy or procedure change is mandated to be enacted by law or New York State Accreditation Standards, or where publicization of the policy or procedure could interfere with effective enforcement of the law or endanger an individual. Examples of policies and procedures where input could be sought include, but are not limited to, the Use of Force Policy and the Vehicle Pursuits Policy. In doing so, these policies and procedures should be analyzed for potential disparate impacts and biases. Such a group could also assist the police department in identifying areas of community need and formulating ideas and making recommendations to the City for how initiatives such as environmental design could help improve overall community safety.

c. Creation of a Police Chaplain Division. The Beacon Police Department will work with the community to develop new partnerships, drawing on and learning from potential models in other communities. These include partnerships in other area cities, such as the Newburgh Police Department of a Police Chaplain Division, which could be established with rotating chaplains from various faiths. The Chaplains Division would leverage clergy as a communal resource to help bridge the gap between the Police Department members and the communities they serve. While Police Chaplains have long existed, to serve officers and their families, this proposal calls for a Chaplains Division which builds on that traditional role and expands it to serve as a community de-escalation resource.

The Chaplain's Division would be a "ministry of presence," not advancing any particular religious practice or even religion in general; rather the chaplains would serve as translators between police and civilian populations, in three main areas:

1. Being on-scene in moments of crisis as a "de-escalating" force
2. Serving as a bridge between the police and the broader community
3. Supporting crime victims and their families and police officers and their families

Chaplains would not carry weapons or have authority to make arrests. They would build relationships with the officers and the broader community. Chaplains would likely be existing

ordained clergy in Beacon; the Beacon Interfaith Clergy Association would be the natural partner for this project.

It is important to note that while for many people, clergy represent a positive, calming presence, for others, clergy can represent oppressive or traumatic experiences in their lives. Special care would need to be taken to ensure that not only are clergy free of any convictions, but they are capable of serving *all* members of the community, regardless of race, religion, or gender identity. This program could be modeled on existing chaplaincy organization, such as the [International Conference of Police Chaplains](#), as well as departments that have built other de-escalation programs, such as [Denver](#) and [Newark](#).

5. Incorporation of Police Officer Experiences and Recommendations

Around the country, reforms falter without buy-in from police rank and file. Integral to Beacon's reform will, therefore, be ongoing incorporation of officers' experiences and recommendations.

a. Police Surveys. As part of the Committee's efforts in researching and producing this Plan and with support from the Beacon Police Benevolent Association ('PBA'), an anonymous survey of Beacon Police Department officers was conducted. Nearly two-thirds of the officers responded to the survey, the compiled answers to which are attached in Appendix 5. The survey asked two questions. The first asked, "What are your experiences in Beacon with police community relations?" The second asked, "What recommendations do you have to improve them?" Officers widely reported feeling very positively about their interactions with the community and expressed appreciation for support and cooperation from the community. At the same time, nearly every officer pointed to three major areas for improvement within the Beacon Police Department. These top concerns related to the high turn-over rate of officers, the lack of available opportunities for advancement or specialization within the Department, and the inability to engage in community policing due to insufficient staffing levels. The Department will institute yearly surveys to gather feedback from its members and track progress on metrics, such as job satisfaction and community relations.

b. Police Retention. The high rate of turn-over was also a concern for many community stakeholders who agreed with officers' assessment that good community policing required recruiting and retaining quality officers who wanted to work with the community and who would stay long enough to truly get to know the community they serve. Recommendations from the committee to assist with this include continued expansion of community policing and community relations efforts, expansion of access to high technology, creation of opportunities for specialized assignments, changes to ensure the salary package is more competitive, and enhancements in scheduling flexibility to enable work with the community on issues of interest and concern.

6. Data Collection and Reporting

Collection, analysis, and reporting of police activity data can be useful to evaluate if policing practices are effective, to ensure compliance with the law, and to identify potential biases and disparities in policing. The Committee recommended the City consider the following steps to improve data collection and reporting, including continuation of some current best practices.

a. Analysis of Data. In order to improve accountability and strengthen joint problem solving and between the community and the Beacon Police Department, the City should regularly analyze what policing data should be collected and distributed in response to community needs and desires. The City should conduct an assessment of its existing data collection and determine what data should be made available to the public.

The Beacon Police Department should continue to expand its collection and making public of data about various Police responses. These might include, but are not limited to, the following:

- Number and disposition of civilian complaints;
- Traffic stop data such the location of the stop, the perceived race/ethnicity of the person stopped, the outcome of the stop and the officer's ID;
- Arrest data such as race/ethnicity of the person arrested and whether the arrest was based on proactive officer activity, a call, or complaint from the public, or a warrant issued by a court;
- Use of force data such as information on number of incidents, number to be found out of policy and information about the time, location, type of event, type of force, injuries sustained to the suspects and officers, and demographic information about the suspects and officers.

The Beacon Police Department currently participates in the New York State Use of Force reporting system, as required by State law, and the Department will participate in the National Use of Force Data Collection.

b. Continued Use of Body Cameras. As noted earlier in this plan, the Beacon Police Department currently requires use of body cameras for all patrol officers along with in-car camera systems. The Committee viewed the use of such cameras as an important measure to protect both the public and the officers and recommended that the City continue to fund and provide this technology.

c. Information Access. The Committee recommended that increased availability of information concerning Police activities and policies were important to the community. As noted previously, the Beacon Police Department already posts a daily blotter to the City website along with its Use of Force Policy. The Department recently started, and will continue to use, social media as a means of communicating with and updating the public on crime trends and areas of public concern and to share information about the Department. As detailed above in *Analysis of Data*, the City will start to make additional information available to the extent that such information does not interfere with the effective enforcement of the law or endanger an individual.

The City and Department will consider other data and information that might be made available. As previously noted, the Department is already considering the release of more detailed traffic stop information, since that is often one of the most common causes for interaction between the Police and community. Additional information such as public aggregate data about the number and disposition of public complaints and use of force will also be considered. Information should be posted and/or shared in a timely manner.

7. A Police Department Reflecting Beacon's Diversity

While relatively diverse in comparison to many other local police departments, only a small percentage of the Beacon Police Department is made up of Black, Latinx, or female officers despite efforts to recruit more diverse candidates. There is a strong consensus among members of the community, City officials, and the Beacon Police Department leadership that the Department needs to continue to prioritize diversifying its workforce. That important goal is often hindered by resistance among minority groups to apply for policing jobs, obstacles toward applicants completing the civil service exam, budgeting limits on new hiring, and competition with other police agencies offering higher salaries and benefits packages.

a. Civil Service Exam. One barrier to diversifying the Beacon Police Department and other law enforcement agencies is the New York State Civil Service system, which requires an exam in order to qualify to be a police officer. Those exams are only offered periodically, sometimes with several years between tests, and many potential candidates simply do not know the process for preparing and taking these critical exams. When considering the hiring of new applicants, the City is required to adhere to the "Rule of Three" under which only the top three scorers on an exam (or more for the top scoring cohort) can be canvassed for the position. Many rightfully argue that the exam process has created a barrier to increasing the racial and gender diversity of law enforcement agencies and other public departments. In 2014, the Beacon Police Department offered a comprehensive tutorial program for the Civil Service exam in conjunction with Dutchess County Equal Employment Opportunity. Unfortunately, this program was ended by the County. The City and Department will explore the potential of reinstituting these tutorials with Dutchess County and making sure they are available to people of all backgrounds. Additionally, exam prep is available through a collaborative between the Dutchess and Ulster County Sheriff's Offices and SUNY Ulster. When these classes take place, the City will use its available means to advertise them, particularly in communities of color and low-income areas. Finally, to help increase access to policing jobs, Dutchess County has removed the requirement for candidates to possess sixty college credits before they can take the Police Office exam. This has now been shifted to require that applicants receive the sixty credits within five years of the start of their employment. The Dutchess County Police Academy would satisfy thirty of those credits through SUNY Dutchess. The Beacon Police Department will attempt to work with SUNY Dutchess to allow additional in-service training to be applied as credits as well. The City should consider programs such as tuition matching or reimbursement to support officers in obtaining these credits.

b. Recruitment and Access. The Beacon Police Department will consider other initiatives to help attract a more diverse candidate pool. The addition of a stipend paid to officers fluent in needed foreign languages like Spanish would also help to increase diversity within the Department and could also be considered in upcoming negotiations between the City and PBA. The Department will also explore the viability of creating a cadet program for young people in the community. It will also work with the City's Human Resources Director and the Dutchess County Equal Employment Opportunity and Inclusion Officer to ensure that all available means for recruiting from diverse populations are explored, and there is sufficient support for new hires to ensure their success. In addition to increase the racial and ethnic diversity of the Department, the City will consider all available alternatives for increasing the gender balance of the Department. Available data strongly suggested that increasing the presence of women in law enforcement agencies can reduce the use of force in those agencies.¹⁰

8. Police Structure and Patrols

Throughout the world, the implementation of community safety plans that create greater community-police trust often begin with an examination of, and possible restructuring of, the police force, itself. If police officers are over-stretched, assigned exclusively to vehicle patrol, and have few opportunities to interact with community members, then community safety plans cannot work. In order to address these problems, the Beacon Police Department has expressed a strong desire to make its focus on community policing and providing opportunities for officers to interact with the public in non-enforcement scenarios. The Department has already realigned its traffic enforcement methods to focus on localized community complaints, rather than casting a wide net and making it the primary focus of proactive patrols. Appendix 4 of this Plan is a description of the current structure and staffing of the Beacon Police Department.

a. Community Policing Projects. The Beacon Police Department has interest in conducting and expanding community policing, but it often does not have sufficient staffing to cover required duties while dedicating officers to such efforts, such as walking Main Street, at least as current duties are required and staffed. There are currently at least six vacant positions in the Department, and most shifts are staffed to the contractual minimum, which limits opportunities for community policing. As staffing levels allow or duties are reconsidered, the Department will consider assigning an officer to foot and bicycle patrols. Such patrols would focus primarily on Main Street but may also include neighborhoods and areas of the City with high population density and foot traffic, such as Beacon's apartment complexes. The intention of these patrols is for officers to make personal connections with members of the community, to learn about and report community concerns or problems to Department leadership, and when possible, to try to find ways address these concerns or problems before enforcement action is necessary. It is important to note that the goal of this type of community policing is not to issue high volumes of summonses or make high volumes of arrests or stops for minor infractions or violations. It is instead to try to get to know people in the community and address

¹⁰ <https://www.ojp.gov/library/abstracts/women-police-use-force-and-against-female-officers>

their concerns by other means where possible. In the meantime, the Department is assigning officers to utilize available time to conduct foot patrols.

b. Evaluating Officers. Traditionally, police officers have been evaluated by their superiors and compared to their peers based on numbers such as numbers of traffic stops and arrests made. While this creates a verifiable method of measuring officer activity, it fails to account for the potential community pitfalls of over-policing. It also ignores and undermines the benefits of relationship and community building between police and the community. Police departments made up of officers who are known to, and trusted by, communities are more effective at solving crimes because they gain the cooperation of those affected. The Beacon Police Department will work with the City administration and public to formulate objective evaluation methods that account for a police officers' work in relationship and community building.

9. Accountability

Accountability for misconduct and thorough and fair investigations of alleged misconduct are centerpieces for community safety, individual rights, and community policing. Changes to oversight, discipline and internal investigation systems can be complex and require agreements between multiple parties, including labor unions, and may even require changes to the City Charter, but increasing accountability should be explored by the City and the Department. Some of the steps discussed in earlier sections- such as the use of body and in-car cameras- should be continued while other initiatives should be considered.

a. Oversight and Accountability. As noted previously, the City of Beacon should explore building a community advisory process. In addition to creating a more structured format for community/ police communication, the City should ensure there is a community involvement in accepting and reviewing complaints, subject to existing disciplinary processes under Civil Service and collective bargaining agreements. While some on the Committee suggested using the City's Human Resource Committee ("HRC") in this regard, the current City Charter does not provide for this type of oversight responsibility by the HRC. Data from the Bureau of Justice Statistics Law Enforcement Management and Administration Statistics ("LEMAS") shows that complaints are more likely to be accepted and acted upon in agencies with a civilian oversight body. It would be important to ensure that such oversight requires training to understand police procedures and the laws that govern police conduct.

b. Complaint System Enhancements. The City and Department should review and as appropriate refine the Department's complaint procedures with involvement of a community advisory process. The goal of such a review to ensure that such complaints can be submitted through multiple means, which is already the case but potentially could be expanded or made easier. The City is already working towards providing the Complaint Form in Spanish, and this should be prioritized. Information on how to file a complaint should be available in many forms and places (e.g., the police station, court, schools, the City of Beacon website, etc.) and should be made available in multiple languages and in locations compliant with the Americans with Disabilities Act.

c. Internal Accountability. The Beacon Police Department will review and if necessary, revise its proceeds for internal accountability. As noted previously, the Department's Use of Force policy requires officers to report use of force by other officers and intervene in situations in which policies are violated. Such peer intervention is an important accountability measure. The Department will review its policies to see if expansion to cover other violations is in order. The City already has a Whistleblower Policy to protect employees reporting misconduct or unethical behavior, and the Department will review said policy to ensure it fully covers situations impacting its officers.

10. Youth Security, Education and Policing

Issues around youth are among the most concerning when it comes to safety, security, and the criminal justice system. Despite the City's growth, a frequent desire raised among residents is wanting additional activities and gathering places for youth and a concern that this may lead to unnecessary contacts with law enforcement. There is a good range of sporting and outdoor spaces, but they are dependent on the weather and limited to recreational activities. The recommendations made here – while beyond the scope of police and public safety review – are intended to provide new spaces for Beacon's youth that strengthen their security, widen their opportunities, and help them to learn about the operations of the criminal justice system.

a. Police Athletic League. One of the most common recommendations from community members, youth, and members of the Beacon Police Department members is the creation of an athletic league that brings together officers and teens. The City will encourage partnership between the Recreation Department and members of the Department to form such an organization, possibly for basketball, tennis, or other sports.

b. Internship Programs. The Beacon Police Department currently has an internship program for college students studying criminal justice. The Beacon City School District superintendent participated in this process and agreed that the District should work toward the creation of an internship program for High School Students to work with criminal justice or other community safety programs such as policing and criminal justice agencies, non-governmental agencies or social work. The Beacon Police Department has indicated it would be a willing participant in such a program.

c. Age-Specific Programs. A long-term goal for improving community safety is to have young people become more engaged members of the community and to increase Beacon resident participation in the Beacon Police Department. Programs that could be utilized to accomplish this are the Officer Phil program for elementary school-aged children and the Get Home Safely program, which educates youth about their rights and responsibilities as community members with tips on how to stay out of trouble and interact with the police. Additionally, if the school district is amenable, Beacon Police Department members and leadership could engage with students in open conversations about issues of policing and public safety in Beacon.

d. Summer Youth Police Academy. Pending improvement in COVID-19 conditions, the Beacon Police Department will reinstitute the Beacon Youth Police Academy (“BYPA”). Each year from 2015 to 2019, the BYPA provided a five-day program for approximately twenty students from very diverse backgrounds, entering grades 9-12. The program was designed to give youth an intensive, hands-on experience learning about criminal justice and interacting with the police.

This program provides many contributions: it helps educate students about the criminal justice system, opens up their consideration for careers in criminal justice, strengthens their critical thinking about public policy, and improves their personal relationships with police and other officials. In addition to in-person classroom time and hands-on experience, the BYPA included several fieldtrips. Students were given opportunities, including: observed a live court session, followed by a tour and Q&A with staff; toured a correctional facility; met with FBI agents and lawyers; and spent a full day at a law enforcement training facility for interactive police simulations.

e. Youth Training. The Beacon Police Department sends its detectives, the primary members working with juveniles, to two separate week-long Juvenile Officer’s trainings hosted by the New York State Juvenile Officer’s Association. There they receive specialized training on specific laws and issues facing juveniles and the differences between the adult and juvenile justice systems. Additionally, the Beacon Police Department works closely with the Child Advocacy Center to address issues of, and conduct investigations into, child abuse.

f. Community Center. Although not specifically a police reform, at the center of community safety is youth well-being. To help provide for it, community stakeholders expressed a strong desire to advance the City’s plan to establish a community youth center. This would be a place to house many of the initiatives proposed above: give youth their own space for art, theater and other activities; provide much-needed services like academic tutoring; and prevent the “crimes of opportunity” that arise when youth have little else to do. Stakeholders cited that there is a great need to provide a safe, inviting, and diverse space for youth who lack structure during non-school hours, during which they are often the subject of calls to police for loitering and disorderly groups. This absence adds greatly to family financial and mental stress and imperils the city’s socio-economic viability. As stressed above, Beacon’s most powerful asset is its social capital, and a youth community center would be a place to bring together and apply our wealth of talent, energy, and experience toward our collective security and future well-being. The City will be taking a first step towards considering this potential new center by conducting a comprehensive recreational needs assessment, which the Beacon City Council funded in the 2021 Operational Budget. This assessment will inventory existing facilities and services and work with the community to identify gaps.

APPENDIX 1: RESOLUTION NO. 127 OF 2020

CITY OF BEACON

CITY COUNCIL

RESOLUTION NO. 127 OF 2020

**RESOLUTION ANNOUNCING CITY COUNCIL'S ACTION
PLAN FOR EVALUATION AND RETHINKING
OF COMMUNITY PUBLIC SAFETY SERVICES**

WHEREAS, our City, State and Country has been presented with a watershed moment to reconsider and reevaluate the public safety services provided to City residents, including to people of color; and

WHEREAS, the City Council has received and sought public comments at a community forum, comments at City Council meetings, individual emails and in discussions with constituents, the City Administrator, the Police Department, among Council members and from groups representing residents engaged on these topics; and

WHEREAS, the City Council recognizes the current environment is the product of years of past history; that change is a process both urgent and ongoing, and that the City has an obligation to engage with the public and police department to address these concerns; and

WHEREAS, it is the intent of the City Council to examine public concerns and existing public safety practices, and evaluate and implement measures to improve the City's providing of these services to its residents; and

WHEREAS, the City Council recognizes certain basic foundational elements that inform its review and the public discussion; and

WHEREAS, Black lives matter; and

WHEREAS, Brown lives matter, LGBTQ+ lives matter, indigenous lives matter, immigrant and undocumented people's lives matter, Muslim lives matter, the lives of people with disabilities matter, poor people's lives matter, all oppressed peoples' lives matter; and

WHEREAS, all lives matter, including the lives of police officers and white people, but historically and currently, generally and with exceptions these have been the lives prioritized by society's institutions, and the recent and historical deaths of black people nationally and

violence against black and other oppressed people make it essential to state that such violence is completely unacceptable and the lives affected by that violence matter; and

WHEREAS, racial tensions and tensions between police and the community exist in Beacon as they do anywhere else in the nation, and there is therefore a need to improve systems of policing, as well as systems of care and community trust; and

WHEREAS, there exists an opportunity to further support Beacon's police officers through the stresses and responsibilities of their roles; and

WHEREAS, the people of Beacon deserve to have the most highly and appropriately qualified individuals responding immediately to their emergencies.

NOW THEREFORE, BE IT RESOLVED that the Council requests the Mayor direct the new Chief of Police to begin their tenure with a thorough review of police training, culminating in a data-driven set of recommendations for improving police training and measuring the benefits.

BE IT FURTHER RESOLVED that the Council also requests the Mayor direct the new Police Chief to examine the City's existing policy on psychological supportive care and testing for police officers and make recommendations, given the stresses inherent in the profession of policing, for periodic counseling and testing during an officer's period of employment.

BE IT FURTHER RESOLVED the Council requests the Mayor direct the City's Human Resource Director to create a multi-year plan for implicit bias training for all City of Beacon staff, including police.

BE IT FURTHER RESOLVED that the Council will review with the Police Chief and City Administrator the types of emergency and other calls to the Police Department to assess what type of skills and experience are required to best respond to these calls.

BE IT FURTHER RESOLVED that the Council requests the Mayor to have the Police Chief and City Administrator examine this information and present a report to the Council on options - including those specifically requested by the Council - to explore deploying alternative responders for nonviolent, noncriminal calls and activities that do not require police training.

BE IT FURTHER RESOLVED that the Council requests the Mayor to have the Police Chief and City Administrator to examine and prepare a report on the City's existing disciplinary policy or procedure for police misconduct, appropriate Local, State and Federal statutes and the process by which civilians and other officers may file complaints about specific incidents, and how such complaints are handled after they are received. The report shall study the incidents of and discipline for excessive use of force, racial bias, and/or harassment and related matters. The Council may recommend improvements in the existing

policies and the existing processes to file and handle complaints, so as to establish strong policies against misbehavior to ensure that our residents can be guaranteed that the police officers serving them are each trustworthy individuals.

BE IT FURTHER RESOLVED that the Council will review existing policies and practices regarding oversight of the police system to ensure: (i) it is transparent, community-involved, and trained to be able to handle their charge; (ii) guarantees that all police working within the City's police department are held accountable to best conduct; (iii) allows for whistleblowers within the police department to share any specific concerns they may have; and (iv) includes a process by which the public can express their policing concerns.

BE IT FURTHER RESOLVED that the Council requests that the Mayor have the Police Chief and City Administrator review existing policies related to use of force in light of recent legal changes, and report to the Council regarding any improvements needed.

BE IT FURTHER RESOLVED that the Council requests that the Mayor have the Police Chief and City Administrator examine and prepare a report on the City's existing weapons (lethal and non-lethal), including noting which are in use, which are required, and which are not in use, as well as the City's existing weapons purchasing policy. The Council may make recommendations including limiting certain types of weapons and other equipment.

BE IT FURTHER RESOLVED that the Council will strengthen Beacon's municipal support for social services, such as mental health services, child care, community assets, digital equity, and food and housing support.

BE IT FURTHER RESOLVED that the Council will, as a part of the annual budget process, consider the multi-year budget implications of all of the above with the intention to redirect cost savings toward community investments.

BE IT FURTHER RESOLVED that the Council considers the above the minimum and start of the work the City must do to advance safety, justice, and the needs of people of color, low-income neighborhoods, and other vulnerable and oppressed members of the Beacon community.

BE IT FURTHER RESOLVED, that these and other actions are intended in part to comply with Governor Cuomo's Executive Order 203, New York State Police Reform and Reinvention Collaborative, issued June 12, 2020.

BE IT FURTHER RESOLVED, the Police Chief and City Administrator will provide reports to the council on the above steps when requested and the Council shall review, revise and supplement this Action Plan periodically.

BE IT FURTHER RESOLVED, as the community discussion continues and evolves additional actions will be taken by the Council and Mayor.

Resolution No. <u>127</u> of 2020			Date: <u>August 17, 2020</u>				
☐ Amendments			☐ 2/3 Required				
☐ Not on roll call.			☐ On roll call			☐ 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson	x				
	x	Jodi McCredo	x				
		George Mansfield	x				
		Amber Grant	x				
x		Air Rhodes	x				
		Dan Aymar-Blair	x				
		Mayor Lee Kyriacou	x				
Motion Carried			x				

APPENDIX 2: COMPARISON OF PER CAPITA POLICE SPENDING IN HUDSON VALLEY CITIES

Police Spend - Downstate Cities		1998	2003	2008	2013	2018	2018
City	County	Rank PC	Rank PC	Rank PC	Rank PC	Rank PC	Per Capita
City of Beacon	Dutchess	7	7	1	1	1	\$272
City of Newburgh	Orange	5	9	12	3	2	\$308
City of Mount Vernon	Westchester	3	2	2	6	3	\$308
City of Kingston	Ulster	6	4	4	2	4	\$335
City of Peekskill	Westchester	10	8	10	7	5	\$342
City of Middletown	Orange	1	1	9	5	6	\$344
City of Glen Cove	Nassau	9	10	6	8	7	\$369
City of Poughkeepsie	Dutchess	11	11	13	10	8	\$371
City of New Rochelle	Westchester	8	6	5	4	9	\$401
City of Long Beach	Nassau	12	13	7	9	10	\$420
City of Rye	Westchester	14	14	11	12	11	\$438
City of Hudson	Columbia	2	5	8	14	12	\$455
City of White Plains	Westchester	15	15	14	15	13	\$460
City of Port Jervis	Orange	4	3	3	11	14	\$469
City of Yonkers	Westchester	13	12	15	13	15	\$524
All Downstate Cities (AVG)							\$420
<i>*Higher Number Values Denote Higher Per Capita Spending</i>							

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APPENDIX 4: BEACON POLICE DEPARTMENT STRUCTURE, STAFFING AND PATROLS

The Beacon Police Department is budgeted for 37 sworn members, two civilian secretaries and one full-time dispatcher. It is broken into 3 general divisions, which are Administration, the Detective Bureau and Patrol. The Department provides 24-hour policing and investigative services to the City.

PATROL

The largest division is the patrol division. It is budgeted for 20 patrol officers and 7 sergeants. Currently, due to open positions, there are 15 officers assigned to the patrol division and 7 sergeants. Patrol members are divided into 4 squads. Of those, 3 squads rotate to cover the day and evening shifts (8AM to 4PM and 4PM to 12AM, respectively). Day and evening members of the patrol division work a contractual 4-day on, 2-day off rotating schedule. A squad, therefore, will work four day shifts, be off for two days and return to work 4 evening shifts and then be off for two days and so on. The midnight shift works a little bit differently because contractually members working steady midnights work 4 days on, 2 days off, 4 days on, 3 days off. Day and evening squads, if at full complement, would consist of five to six patrol officers and one sergeant (absent members using time off). This would allow permanent assignment of beat officers who would be responsible for walking or bicycling Main St. as well as other areas of high population concentration for the purpose of conducting community relations, making the department more accessible to the community and conducting enforcement if necessary. Currently, due to open positions, we are running the contractual minimum of three patrol officers and one sergeant on nearly every shift. (One shift has two sergeants but the second sergeant is assigned to the most senior sergeant's squad and counts as a patrol officer in order to minimize more costly sergeant overtime.) The midnight shift is currently staffed by 5 patrol officers and three sergeants (one out on long term disability). This is because of the need to cover all days of the week with one group of steadily assigned members and the different schedule (in other words, they don't all work at once). Presently the midnight shift also has a sergeant and three patrol officers, though sometimes it is two sergeants and two patrol officers (again necessitated by the 4/2, 4/3 rotation schedule). At full complement there would be a total of 6 patrol officers and 3 sergeants assigned to the steady midnight shift. This would give either 3 or 4 patrol officers and 2 sergeants on each shift. The two sergeants are assigned to limit costly supervisor overtime.

The 24/7 need to staff the desk at police HQ in order to answer telephones, radios, monitor surrounding radio frequencies, input data into the computer system, maintain warrant files, address walk-ins, dispatch officers to calls, etc., means that currently on nearly all shifts other than week-day, day shifts where a dispatcher fills this roll, the department deploys two patrol officers and a sergeant to answer and respond to all calls/requests for service, complete all reports of crimes and incidents, complete full investigations of minor crimes, conduct traffic enforcement and patrol as well as high visibility patrol, complete community relations, etc. The

sergeant is responsible for supervising the patrol officers, ensuring that they are completing these tasks in a timely and professional manner by reviewing all reports and approving or returning them for correction, reviewing the work of patrol officers by responding to calls and directly observing or reviewing body and in-car camera footage and performing the function of a patrol officer when needed. Due to the size of the department and the significant administrative requirements placed on every police department, each sergeant also has an area of administrative assignment. This includes traffic administration, corrections law monitoring and compliance, exposure reporting, first aid coordination and impounds.

DETECTIVE DIVISION

The Detective Division is staffed by five detectives and one detective sergeant. Four detectives are assigned to handle investigations and follow up on all cases requiring significant follow up as well as all felony offenses. They are also the department's crime scene investigators / technicians so they handle the processing and collection of evidence at crime scenes. They are also tasked with handling all cases involving juveniles, adolescent offenders, child abuse and sexual crimes. They maintain the sex offender database, ensure compliance from registered offenders, maintain the department's evidence system, collect and turn over all material required by the newly enacted state evidence discovery laws, ensure timely follow up on court issued warrants and liaison with the school district to address safety concerns in the schools such as threats made on social media, etc. The detectives are also responsible for conducting pre-employment background investigations, background checks for the Beacon Housing Authority, collecting DNA samples from those required to provide them post-conviction and participating in the Dutchess County Field Intelligence Group. There is a fifth detective assigned to the Dutchess County Drug Task Force. The task force focuses on the distribution side of drug enforcement throughout the county, pursuing those selling felony amounts of drugs as well as pursuing prosecutions against drug dealers who are associated with overdose deaths. The task force detective also monitors all drug overdose occurrences in the city. Detectives work a rotating schedule on weekdays (one set of 8AM to 4PM shifts, followed by a set of 3PM to 11PM shifts) One detective is always on call for incidents on weekends, after hours or if more detectives are needed to respond to an incident.

ADMINISTRATION

The administration is made up of the Chief, the Captain (currently unfilled) and the two uniformed Lieutenants.

The responsibilities of the uniformed Lieutenants include supervising all of the uniformed Sergeants, maintaining and overseeing the department's computerized record management system, maintaining statistics for the patrol division, managing the department's NY State Accreditation, managing the department's accountability systems such as the body worn cameras, in-car cameras and the department's telephone and radio recording system. They are also responsible for fleet maintenance and management, patrol scheduling, coordination of the

patrol division with other city services such as DPW, event and parade planning and liaising with District Attorney's Office on matters involving the patrol division. The uniformed Lieutenants are responsible for designing and implementing changes to department procedure in order to comply with changing laws and practices such as bail/discovery reform, juvenile justice reform, etc., coordinating the Dutchess County domestic violence advocate and review of all use of force incidents. The Uniformed Lieutenants work weekdays, opposite of each other and rotate between the day shift and evening shift every week. They also cover as the patrol supervisor during their regular shift if the sergeant is off for vacation, sick or personal time.

The Captain is responsible for grant management, all internal affairs functions such as investigating and following up on personnel complaints from the public, internal discipline issues and making recommendations to the Chief of Police on those items. The Captain is responsible for coordinating and supervising the hiring of staff and working with civil service on those items, policy development and implementation, training coordination and assisting the Chief of Police by participating in any assigned committees, special projects, etc. The Captain supervises the work of the Uniformed Lieutenants and Detective Sergeant and participates in labor relations and negotiations with the bargaining unit. The Chief of Police is responsible for overseeing all personnel and department activity, ensuring the department is responsive to community needs, reporting the activities of the department to the City Administrator, preparing and maintaining the department's budget, discipline of department members, evaluation of department programs, policies and procedures, assignment and promotion of department members, giving the final decision on all hiring and participating in labor relations and negotiations with the bargaining unit. The Captain and Chief of Police generally work weekday, day shifts but as non-union management employees they are required to flex their schedule or work additional hours to meet the needs of the department.

CIVILIAN STAFF

The department employs two civilian secretaries and one dispatcher. One secretary is assigned to the detective division and chief of police. That secretary is responsible for managing department records, processing purchasing requests, maintaining the inventory of non-critical department property (office supplies, etc.), merging of files in the department's computerized record management system and maintaining the system by which taxi cabs are registered. The other secretary is assigned to be the juvenile secretary and also handles processing and compliance with most FOIL requests, maintaining and issuing handicapped parking permits and maintaining the inventory of non-critical department property for designated the juvenile area. The dispatcher handles the dispatching function which is described above. All civilian staff work the day shift on weekdays.

NON-STAFF WORKING AT THE BEACON POLICE DEPARTMENT

Dutchess County assigns a victim's advocate to be co-housed in the police department. The victim's advocate is not an employee of the police department and primarily advocates for

victims of domestic violence and sexual crimes. The advocate coordinates and follows up to provide services and resources for those victims. The department will also soon, co-house a civilian mental health worker who will coordinate mental health services for those who come into contact with the police department as well as respond to some calls for service for people in mental health crisis.

FUTURE STRUCTURAL GOALS

Community Policing- When staffing allows the department intends to start assigning members on a continuous basis to complete foot and bicycle patrols with the primary intention of having those officers make connections with those in the community, to learn about and report to the administration any community concerns or problems and to address those problems, if possible, before enforcement action is needed. These patrols would take place on Main Street as well as other areas of high population concentration. It is important to note that the goal of this type of community policing would not be to issue tickets or make arrests for minor infractions, particularly if community concerns in those areas can be addressed through other means. The department has already started to shift toward community-based policing by realigning the department's traffic enforcement efforts to concentrate on areas where there are specific community complaints, rather than casting a wide net and making it the primary focus of proactive patrols. The department would also do well to have input from the public on how to objectively assess officer performance in the area of community relations and policing in order to shift away from "numbers based" evaluation methods.

Law Enforcement Assisted Diversion- The department, as well as the City of Poughkeepsie Police Department is currently working with the Dutchess County Department of Behavioral and Community Health on starting a program for Law Enforcement Assisted Diversion. The goal of such a program would be for department members to work with case managers to identify and introduce people who are frequent subjects of police calls due, primarily to unmet needs in the areas of mental health, addiction or homelessness.

Needs Assessment- The department would benefit from a community safety needs assessment that is not only comprehensive but also ongoing and directed in a manner so that it addresses differences in the needs of different communities or neighborhoods so that areas of focus for officers patrolling those communities are tailored to those needs. This can be done through community surveys, community meetings and the aforementioned officers conducting community relations and bringing back what they learn from conversations with residents.

Scheduling- Much of the current structure and staffing is contractual or derived from other labor agreements. At current levels it is pretty minimal, allowing the department's patrol division to safely respond to, for example, one domestic incident and one other minor incident such as a car accident that does not require any traffic control, at the same time on most shifts using best practices for dispatch.

APPENDIX 5: BEACON POLICE DEPARTMENT STAFF SURVEY

February 2, 2021 Survey Questions and Results:

QUESTION 1: Please tell us about your experiences and recommendations regarding the relationships and contacts between Beacon Police officers and citizens in Beacon.

1. My experience is great. I love the Beacon Police.
2. My experience and interaction with the Beacon Police Department and its officers has been courteous and professional.
3. Any and all of the experiences I have had with the Beacon Police have been professional, courteous, helpful, and extremely fair. I believe that police officers have a hard job to do and that we should be thankful for them and what they do, because few people are willing to. Every officer I've had dealings with has always gone out of their way to help me and I could not be more appreciative.
4. I believe we should have a dedicated Main St officer /PR/PARKING/ETC...
5. The Beacon PD is a progressive police department and has had progressive policies in place before NYS required all police departments to have.
6. I believe that we have an overwhelming amount of positive interactions with the general public. It would be nice to have more resources to dedicate just to community policing. I feel our short staffing limits our ability to engage the public at times.
7. Experiences- for the overwhelming majority of interactions, the citizens appreciate our presence and assistance. We have a good working relationship with the residents and business owners based on a mutual respect. Recommendations- when addressing concerns or complaints involving officers, asking questions about the incident and gathering the facts of the circumstance is paramount to understanding objectively.
8. Any police officer's experiences and relationships with the public are mixed. On one side the police are viewed as protectors and people you trust to help you out when you need it, without question. The other side you have people who have a negative view of the police because the interactions they have with us are at their most negative times in their lives. Therefore, they can only view the police as being around in the negative aspect. It has been my experience here in Beacon that the majority of the public trusts us and there is a mutual respect. However, over the past year there has been a small group of people, who have taken a legitimate movement to vilify any and all police officers with no facts to back up allegations of wrong doing by the members of this department. This group has influenced others in the community, creating a narrative and attitude that has made our job more difficult, in terms of cooperation.

9. General population of Beacon seems supportive of BPD and its Officers.

10. Relationships and contacts are usually very well, the vast majority like this department and the members since a lot of us grew up here and work in our home town department. I do not recall any negative contact in my ten plus years on this job with talking to citizens and attempting to help victims of crime. Obviously due to the nature of this profession and when mandatory arrests are made not everyone will have a great experience with us and deflect their own mistakes onto us. I do believe when we reach a higher staffing level having the community officer on Main street will be a great asset to Beacon and I have already recommended to fellow officers the need to interact more with citizens to improve police relations.

11. In my experience the relationships and contacts between BPD officer and Citizens in Beacon have been nothing but professional and exceptional considering the atmosphere in the US regarding such topic. BPD officers are from all walks of life, ethnic backgrounds, and show proficiency in building relationships and having good contacts with the citizens of Beacon.

12. Every time I have had contact with the officers of the department it has been professional

13. The unfortunate staffing levels have led to less personal interactions with the BPD officers and citizens. Officers are unable to dedicate time to improving community relations with the public due to the minimal shifts and having to handle the daily call volume. Unfortunately, most time spent with the public is during calls for service and not for being able to go into the community and speak with the general public. The turnover rate and loss of quality officers has hurt BPD with officers not staying with the department long enough to build strong community relations with the citizens of the city. When officers are able to find the time to interact with the public and speak with the citizens the interactions and outcome has had positive feedback and relationships have brought the BPD and community closer

14. I have been employed with the City of Beacon Police Dep for approx. 17 years. Over my years and thousands of contacts with the citizens of Beacon, I feel an overwhelming the city of Beacon supports the police officers that are employed with the city. I have established hundreds of friendships, whether it be by my patrols, Child Car seat events and/or Beacon Youth academy. As any job I feel not everyone is going to like you especially when it comes to police being you usually meet/see people under stressful situations. But I have made many acquaintances with people I have been in contact through those means also. I also feel the short-staffed department does not get a chance to get out and actually do community policing. We have very few officers working per shift to which most of the time they are busy with calls to service, traffic control, walk in complaints etc., and don't have the proper time to get to know Citizens in this city. The turnover margin of officers is also extremely high, which puts stress on officers making meaningful relationships in this city. Overall, I feel our police officers are very respectful and the citizens of Beacon are just as respectful back

15. For the most part, my experiences with interacting with the citizens of Beacon have been positive. Even in situations where I have had to take individuals into custody, many people

leave thanking officers and before COVID-19, even shaking our hands. I believe that the best approach to connect with our community here in Beacon and continue to build positive relationships is to increase the number of soft contacts the police have with the public (i.e. coffee with a cop, foot patrols on community events/Main St.) It is important for people to know that we are human beings too, and not just a uniform carrying a badge and a gun.

16. Throughout my employment at the City of Beacon Police Dept., I have observed professionalism and curtesy by the members of the department. On a daily basis the men and women who work for the department strive to interact with the community on a positive level and always treat the City of Beacon residents with respect. In regards to a recommendation that I believe would make the relationship between the citizens of Beacon and the Police Dept. become even closer together, would be the formation of a Community Policing Unit.

17. The citizens of the City of Beacon have a great deal of respect for the officers working on the streets. Personally, my relationships with citizens are very cordial and inviting and many are left with what seems to be good impressions on the department image. More community events with police interaction would be beneficial for the department and public in terms of getting to know their officers as more than a uniform, but as people too. The turnover rate of Beacon seems to be an issue as many citizens comment on how they do not recognize new officers, and that adaptation of getting to know new officers can be daunting. More transparency in regards to police practices or opportunities to inform the public would be warranted as there are those who demonize the police as a whole with very little understanding or knowledge of the good efforts that Beacon Police puts in for its City, based on media scrutiny.

18. As a Police Officer, I feel that I have had many positive interactions with the community. Anytime I walk on Main St, business owners will come out to talk to us to see how we are doing and address any concerns or problems they may have. While we are walking around community members are able to become familiar with individual Officers and are able to build a working relationship. This allows citizens to feel more comfortable with Beacon Officers in case a future incident arises where they will need our help. Having that personal relationship allows citizens to know that we want to try our best to help, it also allows citizens to feel comfortable enough to speak to us about their problems.

19. My experiences are largely positive, even in enforcement situations. Community policing initiatives could further the positivity.

20. An overwhelming majority of my personal contacts have been positive ones, even in instances where enforcement is implemented. Ignorance is to blame for a majority of bad contacts and relationships between BPD officers and the citizens of Beacon, thankfully BPD officers have outstanding interpersonal skills to deal with such instances.

21. My experience is the general public needs to educate themselves as far as law and law enforcement is concerned. It's quite apparent that far too many people know what they know

from the main stream media which always seems to show the police in a negative light. The medias objective is division in this country and pitting the people against the police is the main factor in this objective

QUESTION 2: Please tell us of any recommendations to improve the approach, structure, or any other aspect of policing in Beacon.

1. Let the police do their jobs
2. My recommendations if any is to put trust and faith within the Beacon Police Department and its associates. Allow officers to conduct their jobs correctly and conduct proper investigations to continue serving Beacon City public to its highest standard.
3. My recommendation would be for any type of change, get insight from the actual people who work there, not just get a bunch of people in a room who have never done the job of police officer, and ask them how it could be better. It's not fair. Cops for the most part are competent at their jobs, and when all else fails, what does every single person do? Call the police to solve their problems, and they do, so treat them well.
4. Have an active bike patrol / more community events to interact with officers EG; sports games and other functions
5. Beacon Police does a very good job at policing the city.
6. I think the city should consider negotiating with the PBA to hire a civilian parking enforcement officer. We do have a large amount of parking complaints, especially on weekends that are in need of enforcement. I have heard negative feedback from the business owners, tourists and residents who act that this necessary enforcement is revenue driven and with some hurts our standing in the community with those effected.
7. Law enforcement careers require countless hours of continued training, preparation and knowledge of a multitude of policies, procedures and laws all intertwined with the dynamics of human interactions. I understand that decisions need to be made from the city government perspective but please first ask questions and get facts from the law enforcement perspective as we are on the "front lines" interacting daily with the same citizens both of us serve.
8. Our number one focus here in Beacon needs to be retention of good, young officers. We have lost at least 10 officers, over the past 5 years to other departments. This number does not count those officers who have retired as a result of completing at least 20 years of service or forced to retire due to injury. Not only does it make keeping this organization running at the highest level, as we have to constantly take time to train new officers but also lowers the moral of the remaining workforce. Problems with retention also affects call for community policing in the City. You cannot effectively and successfully have a community policing unit or initiative if

your officers are constantly changing. The public needs build a relationship with officers to properly know and trust them and the work of the department as a whole. Our approach to policing here in Beacon must first be some form of a structured community policing effort. If we are successful in this, we will be able to work hand in hand with the community to address criminal activity and maintain the level of safety this city has achieved.

9. Increased numbers Officers and more and more regular training.

10. Staffing has always been an issue since I started with this department over ten years ago, having only two officers on the road for most of my career to answer calls and patrol neighborhoods. Unfortunately, local departments especially like ours has been taking hits because of good quality officers transferring to higher paying ones in different counties. I recommend hiring more officers, which will have to be more frequent now due to the above stated and more training to officers especially in the area of people suffering from mental health and substance abuse.

11. A recommendation I would have is that the officers receive more training in regards to any of the hats that police have to throw on while performing their job.

12. Let them do their jobs

13. Staffing levels need to improve so that officers can have dedicated time to build quality relationships with the public without officers feeling rushed to have a quick interaction or interrupted conversations to respond to calls for service due to minimal staffing. A productive approach to try and retain good quality officers should be made by the city council so that interactions and relationships can grow between the community and BPD officers. A serious look into a real community policing division should be the focus of the city council that would have dedicated officers who can a special relationship with the community and the leaders of the community. It has been proven that having quality officers who volunteer for the community relations division have been able to make positive impacts with the community and the police department due to the time the assigned officers have to dedicate to improving the relationships between BPD and the community. It also allows the community and the leaders to have certain officers as contacts and liaisons that can be trusted for both parties.

14. Like I stated in the first question, I helped run with the Beacon Police Youth Academy which helps are youth in this city understand the job of a police officer and what it details. The program has been extremely successful, and I hope it continues. Hiring and retaining of officers would certainly help. Lots of are highly regarded police officers leave for higher paying jobs. This hurts the community and our department when it comes to building strong relations with the community. I understand money is always an issue, but if the gap was closed a little more compared to the other departments, it would most likely keep officers here, and more officers are likely to come here to work which would definitely help with retention of the police dept.

15. One of the biggest issues facing policing is the matter of retention. This is especially so in Beacon PD. Over the past 5 years or so this department has seen at least 10 officers leave. Some of these officers through retirement, however most leave to go to other opportunities in departments elsewhere that have more to offer. As a result, the Department is left operating at minimum staffing levels and scrambling to try to recruit new officers. This creates a number of issues. The constant cycling of new recruits in and out of the department means that only a small number of officers actually stay in Beacon for the length of their career.

Typically, the longer an officer works at a department, the more skilled and efficient they become at their job, cutting down on waste as well as liability as they have more knowledge of the job, proper procedures and best practices. More importantly, the longer officers work at a department, the more relationships they can cultivate within the community they serve. Unfortunately, many new recruits only look at Beacon PD as a stepping stone to a different department resulting in a lack of interest in building these relationships that are so vital to the success of not only the Beacon Police Department, but the City of Beacon as a whole. Why do they leave? Some of these officers leave to go to departments where they make more money. Beacon is in a difficult position in its geographic location because of its proximity to Putnam, Westchester, and Orange counties, where there are departments that have higher base salaries that Beacon PD just does not compete with. Other officers, especially newer officers leave to go to departments where they have access to the latest technology and up to date equipment. Some officers leave to go to departments where there are more opportunities to advance in their career. Like in most professions, new officers as well as senior officers need to feel fulfilled in their career. Officers are drawn to divisions such as K9, Anti-Crime, Diving/Recovery, drug task force, community policing and other specialized units that not only provide officers with an engaging work environment but provides the community with valuable resources that help protect the lives and investments of the citizens of this City. Unfortunately, as a result of years of high turnover, uncompetitive benefits, lack of career opportunities and lack of up-to-date technology and equipment (such as vehicles that have reached the end of their service life, and outdated computers) Beacon PD has had difficulty attracting and retaining officers.

What can Beacon do? With an ever-shrinking pool of qualified applicants, Beacon PD needs to focus on building morale, employee retention and attracting talented officers to join the department. One of the most effective ways to do this is to offer a more competitive benefits package to officers. This incorporates a more competitive salary, but also includes but is not limited to things such as tuition assistance programs and uniform allowances. Another effective way to retain and attract talented officers to Beacon PD is to offer more opportunities for career advancement as well as specialty units and assignments. The City of Beacon as a whole would benefit greatly by investing time and effort to make sure that its officers receive quality training on a consistent basis that allows officers to learn and grow as individuals while gaining valuable skills in which they can use in service of this community. Training not only improves the quality of an officer, it reduces the potential liability of an officer mishandling a situation. Beacon must also work towards equipping its officers with updated equipment and vehicles. Fortunately, there are many grant programs available through various state and federal agencies that could provide this department with much needed equipment at little to no cost to

the City. Beacon is fortunate to have such a beautiful community with a thriving Main St that attracts people from all over to enjoy what this City has to offer. This was achieved through the collaborative effort and hard work of The Beacon City Council, Beacon PD and most importantly the citizens of Beacon themselves. It is essential that Beacon invests in its public safety and allow the Beacon PD build stronger ties within the community in which it serves instead of it just being a line item in a budget.

16. I believe that the formation of Community Policing Unit would help strengthen the relationship between the Police Dept. and the community. I would also like to see the addition of specialized units, such as a Hostage Negotiation Team and Emergency Services Unit to deal with incidents that may require specialized training and tactics.

17. More proactive policing approaches can help engage officers in the community and strengthen relationships with the public.

18. Becoming a Police Officer is a job of growth. Officers from the day they join to the day they retire are always aspiring to be better and more knowledgeable Officers. Working in Beacon feels like working at a job with a low ceiling for advancement. Officers have nothing to work toward, there are no special assignments or units in Beacon. For example, many officers wished that there were was a K9 unit with more than one dog. A dog could be used in many scenarios, and can even be a way to open up communications between the community and police. Young community members can meet and pet the dog and the Officer that handles the dog. The low pay and lack of growth compared to neighboring Departments forces Officers to want to leave Beacon for better jobs. A promotion feels more like a reassignment with the lack of pay and increased responsibilities and is not an incentive to work harder. Beacon wants to create a better relationship with the community, but the number of Officers leaving to other Departments with better incentives creates a spinning tire effect. No relationship is ever being built because as one officer leaves another new officer fills the spot in which he must start from square one to gain the trust of the community. Officers from other Departments avoid applying to Beacon because they see that Beacon has nothing to offer its current employees. If Beacon continues to grow, so must the agency that protects and serves the community.

19. Institute a dedicated community policing unit.

20. Fund and support our ability to train properly and thoroughly. Allow opportunities for advanced training. This will assist with officer retention as well as promote the growth of BPD and its officers. BPD is not comparable to surrounding departments when it comes to advancement opportunities for its officers.

21. It is my recommendation that the age be raised to 25 from 21 for police applicants. In my opinion life experience is pretty valuable when it comes to being a police officer. With police training, there should also be a segment that shows and somewhat educates police recruits on what environments on which they may not be familiar with.

APPENDIX 6: CITY OF BEACON WHISTLEBLOWER POLICY

- a. Purpose.** It is the policy of the City of Beacon to afford certain protections to individuals who, in good faith, report violations of ethics or other instances of potential wrongdoing within the City. The Whistleblower Policy set forth below is intended to encourage and enable employees to raise concerns in good faith within the City of Beacon Administration, and without fear of retaliation or adverse employment action.
- b. Definitions.**
 - i. **Good Faith:** When the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential Wrongdoing.
 - ii. **Employee:** All Elected Officials, board members, officers and staff employed at the City of Beacon, whether full-time, part-time, employed pursuant to contract or appointment, employees on probation or temporary employees.
 - iii. **Personnel Action:** Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.
 - iv. **Whistleblower:** Any City of Beacon Employee who, in Good Faith, discloses information concerning potential Wrongdoing by another City of Beacon Employee, or concerning the business of the City of Beacon itself.
 - v. **Wrongdoing:** Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by a City of Beacon Employee that relates to the City of Beacon.
- c. Reporting Wrongdoing.** All City of Beacon Employees who discover or have knowledge of potential Wrongdoing concerning elected officials, board members, officers, or Employees of this City, or a person having business dealings with this City, or concerning the City itself, shall report such activity in accordance with the following procedures:
 - i. The City of Beacon Employee shall disclose any information concerning Wrongdoing, either orally or in a written report, to his/her supervisor, or to the Authority's City Administrator or Director of Human Resources.
 - ii. All City of Beacon Employees who discover or have knowledge of Wrongdoing shall report such Wrongdoing in a prompt and timely manner.
 - iii. The identity of the Whistleblower and the substance of their allegations will be kept confidential to the extent possible.
 - iv. The individual to whom the potential Wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to City of Beacon Counsel or an appropriate law enforcement agency where applicable.
 - v. After investigation, the individual to whom the potential Wrongdoing is reported shall recommend appropriate corrective action, if any.

- d. False Complaints. Any unfounded allegation that proves to have been made maliciously, recklessly, or knowingly to be false will be viewed as a serious offense and result in disciplinary action, up to and including termination of employment.
- e. No Retaliation or Interference. No City of Beacon Employee shall retaliate against any Whistleblower for the disclosure of potential Wrongdoing, whether through threat, coercion, or abuse of authority; and no City of Beacon Employee shall interfere with any other City Employee by any improper means aimed at deterring disclosure of potential Wrongdoing. Any attempts at retaliation or interference are strictly prohibited; also:
 - i. No City of Beacon Employee who in Good Faith discloses potential violations of ethics, or other instances of potential Wrongdoing, shall be the subject of harassment, retaliation or adverse Personnel Action.
 - ii. All allegations of retaliation against a Whistleblower, or interference with an individual seeking to disclose potential Wrongdoing, will be thoroughly investigated by the City of Beacon.
 - iii. Any City of Beacon Employee who retaliates against, or attempts to interfere with, any individual for having in Good Faith disclosed potential violations of ethics or other instances of potential Wrongdoing may be subject to discipline, which may include termination of employment.
 - iv. Any allegation of retaliation or interference will be taken seriously and, irrespective of the outcome of the initial complaint, will be treated as a separate matter.

Other Legal Rights Not Impaired. The Whistleblower Policy set forth herein is not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential Wrongdoing, free from retaliation or adverse Personnel Action.

- f. Specifically, this Whistleblower Policy is not intended to limit any rights or remedies that an individual may have under the laws of the State of New York including, but not limited to, the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the “False Claims Act”), and Executive Law § 55(1).
 - i. With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any Employee who wishes to preserve such rights shall, prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his/her designee the information to be disclosed, and shall provide the appointing authority or designee a reasonable time to take appropriate action, unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).

APPENDIX 7: CITY OF BEACON DOMESTIC VIOLENCE POLICY

- a. Policy Statement.** The purpose of this policy is to identify and prescribe City of Beacon (City) practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence.
- b. Definitions.** For purposes of this policy, the following terms will be defined as follows:
- i. Domestic Violence:** A pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against a Family or Household Member with the goal of establishing and maintaining power and control over the victim.
 - ii. Family or Household Member:** Includes persons related by consanguinity or affinity; persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time; and unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household.
 - iii. Abuser:** A person who perpetrates this pattern of coercive tactics.
 - iv. Victim:** The person against whom an abuser directs coercive and/or violent acts and/or their child.
 - v. Domestic Violence Service Provider:** Agency or staff member of an agency that primarily or exclusively provides comprehensive services to victims of domestic violence, including residential programs licensed by the NYS Office of Children and Family Services.

Guidelines. Employee Awareness: The City shall increase awareness of domestic violence and inform employees of available sources of assistance i.e. The Employee Assistance Program, local domestic violence service providers, the NYS Domestic Violence and Sexual Assault hotline, and/or trained Human Resources personnel who are available to serve as confidential sources of information, support, and referral (Domestic Violence Liaison).

- c. Non-Discriminatory and Responsive Personnel Policies for Victimized Employees.** The City will ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.
- i.** In Accordance with Executive Law §§292(34), 296(1), 296(22) employees will be allowed reasonable time off for the following reasons:
 - To seek medical attention for injuries caused by domestic violence;
 - To obtain services from a domestic violence shelter, program or rape crisis center;
 - To obtain psychological counseling related to an incident of domestic violence;
 - To participate in safety planning or to take other actions to increase safety from future incidents of domestic violence; or

- To obtain legal services, assist in the prosecution of the offense, or appear in court in relation to the incident of domestic violence.

An employee who requires reasonable accommodations must give advanced notice to the employer if possible. If it is not possible to give notice, the employer may request that the employee certify their victim status after the time off with either a police report, court order or other evidence from a court or prosecutor, medical records, or service provider records. Acceptable forms of notification are:

- A police report indicating that the employee or their child was a victim of domestic violence;
 - A court order protecting or separating the employee or their child from the perpetrator of an act of domestic violence;
 - Other evidence from the court or prosecuting attorney that the employee appeared in court;
 - Documentation from a medical professional, domestic violence advocate, healthcare provider, or counselor that the employee or their child was undergoing counseling or treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.
 - Any other proof accepted at the discretion of the Director of Human Resources.
- ii. Employees who are victims of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), shall be allowed to make reasonable changes in benefits at any time during the calendar year where possible, in accordance with statute, regulation, contract and policy.
 - iii. In cases in which it is identified that an employee's work performance difficulties are a result of being a victim of domestic violence, said employee shall be afforded all of the proactive measures outlined in this policy, and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, special care will be taken to consider all aspects of the victimized employee's situation, and all available options in trying to resolve the performance problems should be exhausted, including making a referral to the Employee Assistance Program, consistent with existing collective bargaining unit agreements, statute, regulations and City policy.
 - iv. If reasonable measures have been taken to resolve domestic violence-related performance problems of victimized employees, but the performance problems persist and the employee is terminated or voluntarily separates from employment, the employee will be informed of their potential eligibility for unemployment insurance and other separation benefits.

d. Workplace Safety Plans.

- i. The City shall have a Domestic Violence Workplace Safety Response Plan in place and provide reasonable means to assist victimized employees in developing and

- implementing individualized domestic violence workplace safety plans, consistent with existing collective bargaining agreements, statutes and regulations.
- ii. The City's response plan consists of alerting the appropriate law enforcement agency by dialing 911, with subsequent notification given to the Director of Human Resources, and City Administrator. Such a plan will allow appropriate actions to be taken if an abuser gains unauthorized access to the work site, or if an abuser engages in any acts that threaten the safety of employees or public.
 - iii. Employees are responsible for providing a written report of any incidents of domestic violence in the workplace, including any threats which they have witnessed, received, or have been told that another person has witnessed or received. These reports should be submitted to the Director of Human Resources. Any employee who obtains a protective or restraining order which includes City-owned or leased premises as a protected area shall provide a copy of such order to the Director of Human Resources.
 - iv. The City shall comply and assist with enforcement of all known court orders of protection, particularly orders in which abusers have been ordered to stay away from the work site. If requested by the victim of domestic violence or law enforcement, the City shall provide information in its possession concerning an alleged violation of an order of protection.
 - v. Employees are encouraged to bring their orders of protection (OP) to the attention of the Director of Human Resources, who will secure the document, along with any other confidential information. The Director of Human Resources will discuss with the employee a plan on how best to proceed to ensure the safest possible work environment for the employee and the rest of the staff. With the permission of the employee, this may include providing a copy of the OP and/or photo of the perpetrator to Department Supervisors, the Police Department and/or front desk personnel. The employee is responsible for notifying the Director of Human Resources if there are any changes to the OP.
 - vi. Information related to an employee being a victim of domestic violence shall not be divulged without the express written consent of the victimized employee, unless it is determined that maintaining said confidentiality puts the victim or other employees at risk of physical harm. In such circumstances, where possible, the victimized employee should be given advanced notification of the intent to provide information to third parties.

e. Accountability for Employees Who Are Offenders.

The City shall hold accountable employees who engage in the following behavior: (1) using City resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace, or from any other location while on official City business; or (3) using their job-related City resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

- i. In cases in which the City has found that an employee has threatened, harassed, or abused an intimate partner at the workplace using City resources such as work time,

- workplace telephones, FAX machines, mail, e-mail or other means, said employee may be subject to corrective or disciplinary action, up to and including termination.
- ii. In cases in which the City has verification that an employee is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the City shall determine if corrective action is warranted.
 - iii. In cases in which any employee intentionally uses their job-related authority and/or intentionally uses City resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for their behavior, said employee may be subject to corrective or disciplinary action, up to and including termination.

APPENDIX 8: CITY OF BEACON COMMUNITY FORUMS ON POLICING AND PUBLIC SAFETY

The City of Beacon hosted three Community Forums on Policing and Public Safety throughout 2020. Beacon became the first in the region to respond to the Governor's call for community dialogue on public safety and held the first of three forums on June 20, the second on November 21, and third on December 19, 2020. All three forums were held virtually for the purpose of health and safety during the COVID-19 pandemic. Comments were also accepted via email and mail prior to each forum. Extensive advertising was conducted; fliers were posted to social media, sent to local press, published on the City's website, and brought to the Beacon Housing Authority for distribution, announcements were also made at preceding City Council Meetings. The forums were moderated by Pastor John Perez of Faith Temple Church of God in Christ, Reverend and former City Councilmember John Rembert, and Beacon High School graduate Sade Barksdale.

A diverse group of community members called into the forums to share their thoughts on policing and public safety. Over 200 people took part in the first forum and all three forums combined have now been viewed over 600 times online. Callers represented all four City Wards, members of Beacon 4 Black Lives, Beacon Mutual Aid, and Beacon Now (formerly Beacon Speaks Out), as well as local educators and business owners. Several members of community boards and committees, including the Beacon Human Relations Commission, Beacon Board of Ethics, and Beacon Board of Education called in on behalf of themselves. While the callers expressed a wide range of views on policing and public safety, the majority of calls were for a demilitarizing of the police department, a hiring freeze, greater transparency and accountability, and increased training for officers, particularly in the field of racial bias.

City of Beacon City Council Agenda
03/29/2021

Title:

Resolution Declaring Intent To Continue the City of Beacon's Community Choice Aggregation (CCA) Program by Continuing to Offer Electricity Supply and Incorporating Opt-Out Community Distributed Generation

ATTACHMENTS

Resolution Declaring Intent To Continue the City of Beacon's Community Choice Aggregation (CCA) Program by Continuing to Offer Electricity Supply and Incorporating Opt-Out Community Distributed Generation

CCA Electricity Supply Agreement



CITY OF BEACON
RESOLUTION #___2021

RESOLUTION DECLARING INTENT TO CONTINUE THE CITY'S
COMMUNITY CHOICE AGGREGATION (CCA) PROGRAM BY
CONTINUING TO OFFER ELECTRICITY SUPPLY AND INCORPORATING
OPT-OUT COMMUNITY DISTRIBUTED GENERATION

WHEREAS, the City of Beacon (the “City”) wishes to maintain control of sourcing their electricity supply, reduce electricity costs, access 100% renewable sources of electricity and catalyze the development of renewable power plants in New York; and

WHEREAS, on Jan 17, 2017 the City enacted Local No. 1 of 2017, “LOCAL LAW AMENDING CHAPTER 106 OF THE CODE OF THE CITY OF BEACON CONCERNING ENERGY CONSERVATION”, enabling a Community Choice Aggregation Program (the “CCA Program”); and

WHEREAS, on May 10, 2017, the City engaged the services of Joule Assets, Inc. (“Joule”) as CCA Program Administrator for the Municipal Program; and

WHEREAS, the City entered into an Electricity Supply Agreement to provide 100% renewable electricity supply to eligible residents and small businesses who did not opt-out from July 1, 2019 through June 30, 2021; and

WHEREAS, the City intends to continue the CCA Program and access additional benefits for eligible residents and small businesses by continuing to offer electricity supply and in addition incorporating an Opt-out Community Distributed Generation (“Opt-out CDG”) offering; and

WHEREAS, Opt-out CDG offers guaranteed savings on electricity bills and supports the local development of solar projects through an agreement with a CDG project developer/owner (“CDG Sponsor”); and

WHEREAS, a CCA Program incorporating electricity supply and Opt-out CDG will maximize the financial and environmental benefits to participating residents and small businesses; and

WHEREAS, the City seeks to obtain competitive bids from electricity suppliers (each a “Supplier”) pursuant to a request for proposal (the “Supply RFP”), that is intended to result in a three-party Electricity Supply Agreement between the selected Supplier, the

City and Joule that, among other things, will govern the terms of provision of the electricity supply by Supplier for the Municipal Program; and

WHEREAS, the Electricity Supply Agreement (in the form attached hereto), has been reviewed and approved for form by the City Attorney, and has been deemed to provide benefits, adequate protections, and minimize risk to the City.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes Joule to issue a Supply RFP consistent with the provisions of this Resolution, with bids to be evaluated based upon compliance with the specifications of the Supply RFP including, without limitation, price and term parameters, and Supplier's acceptance of all material terms of the Electricity Supply Agreement;

BE IT FURTHER RESOLVED, that the City Council approves the Electricity Supply Agreement in substantially the form attached to this Resolution as Exhibit A, the Electricity Supply Agreement may be subject to further review and approval by the City Attorney as to form and substance and shall be included in the Supply RFP;

BE IT FURTHER RESOLVED, that Joule in its role as Administrator for the CCA Program shall, among other things, manage the energy procurement process, prepare and issue the Supply RFP, and make recommendations for award to the City; provided however, that the City will, through the Mayor, make the final award decision;

BE IT FURTHER RESOLVED, that subject to the conditions that the awarded Supplier has been prequalified as required by Joule and that the awarded bid meets the specifications established in the Supply RFP, the Mayor is authorized to execute an Electricity Supply Agreement on behalf of the City in substantially the form attached hereto with the awarded Supplier and Joule in a timely fashion; provided, however, that the City is under no obligation to award the Supply RFP for any bid that fails to meet the specifications established in the Supply RFP. In addition, the City is under no obligation to award the Supply RFP if any of the conditions of the CCA Administration Agreement shall not be met.

BE IT FURTHER RESOLVED, that the City Council authorizes Joule to prepare or include the City in an Opt-out CDG Implementation Plan for submission to and approval from the New York State Department of Public Service;

BE IT FURTHER RESOLVED, that the City authorizes Joule to enter into negotiations on the City's behalf, with Utility and CDG Sponsor(s) for incorporation of Opt-out CDG into existing CCA Program; and

BE IT FURTHER RESOLVED, that the Mayor is authorized to enter into any agreements on behalf of the City in relations to Opt-out CDG consistent with this resolution in the Mayor's reasonable discretion.

Resolution No. ____ of 2021			Date: <u>March 29, 2021</u>				
☐ Amendments						☐ 2/3 Required	
☐ Not on roll call.			☐ On roll call			☐ 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Amber Grant					
		Air Rhodes					
		Dan Aymar-Blair					
		Mayor Lee Kyriacou					
		Motion Carried					

Electricity Supply Agreement
between Supplier, Joule Assets, Inc. and [NAME OF
MUNICIPALITY]

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PREAMBLE

This Community Choice Aggregation Electricity Supply Agreement (“**ESA**” or “**Agreement**”) is made as of [DATE] (the “**Execution Date**”) between:

The [NAME OF MUNICIPALITY], a [NAME OF ENTITY] in the State of New York, with a principal place of business at [MUNICIPALITY ADDRESS] (the “**Municipality**”);

[NAME OF SUPPLIER], a [TYPE OF ENTITY] [organized/incorporated] in the State of [STATE OF ORGANIZATION/INCORPORATION] duly authorized to do business in the State of New York with a principal place of business at [SUPPLIER ADDRESS] (“**Competitive Supplier**” or “**Supplier**”); and

Joule Assets, Inc., a corporation incorporated in the State of Delaware duly authorized to do business in the State of New York, with a principal place of business at 22 Edgemont Road, Katonah, New York 10536 (“**Joule**” or “**Program Administrator**”).

RECITALS

WHEREAS, Joule Assets sought approval of a community choice energy aggregation (“**Community Choice Aggregation**” or “**CCA**”) program through the Public Service Commission of the State of New York (“**PSC**”), that would allow local governments to participate in a program managed by Joule to procure energy supply from an Energy Services Company for the Eligible Consumers of participating municipalities;

WHEREAS, by Order effective March 16, 2018 (Case 14-M-0224: <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-m-0224>), the PSC approved and authorized Joule to implement its CCA program;

WHEREAS, the Joule CCA program is intended to include Eligible Consumers, and to permit the aggregation of electric purchases within the communities that elect to participate;

WHEREAS, the Municipality has adopted a Local Law to participate in the Joule Community Choice Aggregation Program (the “**Program**”) to aggregate consumers located within the Municipality and to negotiate competitive rates for the supply of electricity for such consumers;

WHEREAS, the Program allows Municipality to solicit competitive bids for the supply of electricity individually or as part of a buying group with other municipal aggregations;

WHEREAS, the Municipality has indicated that it desires to offer a 100% renewable supply option to Participating Consumers as a “default” option (the “CCA Renewable Electricity Product” as defined below) with the potential for Participating Consumers to have the ability to change to an alternate product option consisting of the alternative standard product described in EXHIBIT A - Part 2 (the “CCA Conventional Electricity Product” as defined below);

WHEREAS, Joule and Municipality have entered into a Community Choice Aggregation Agreement (the “CCA Agreement”) pursuant to which Joule and Municipality agreed, among other things, that Joule would provide certain energy services to Municipality in relation to a CCA Program including acting as Program Administrator;

WHEREAS, Municipality desires to implement a CCA Program with Joule serving as Program Administrator;

WHEREAS, the Municipality has resolved, among other things: (a) to authorize Joule to issue an electricity supply RFP to suppliers to provide electricity to Participating Consumers (as defined below); (b) to authorize Joule to award an electricity supply contracts in accordance with such RFP; (c) to approve the form of this ESA; and (d) to authorize execution of an ESA with the awarded supplier provided that the bid met the specifications set forth in the RFP;

WHEREAS, Competitive Supplier desires to provide Full-Requirements Power Supply to Eligible Consumers located within the Municipality, pursuant to the terms and conditions of the Program and this ESA;

WHEREAS, the Municipality desires that the Competitive Supplier provide Firm Full-Requirements Power Supply and Consolidated Billing as an alternative to Basic Utility Supply Service for consumers within the Municipality;

WHEREAS, Competitive Supplier has submitted an offer to provide the following: (1) a CCA Renewable Electricity Product and Price, if included and attached as EXHIBIT A Part 1; and/or (2) a CCA Conventional Electricity Product and price if included and attached as EXHIBIT A Part 2;

WHEREAS, Competitive Supplier agrees to pay a fee to Program Administrator;

WHEREAS, Municipality desires Competitive Supplier to collect and remit the fees due the Program Administrator; and

NOW THEREFORE, IT IS AGREED THAT, Municipality, Program Administrator, and the Competitive Supplier hereby enter into this ESA subject to the terms and conditions below.

ELECTRICITY SUPPLY AGREEMENT

ARTICLE 1 -- DEFINITIONS

Capitalized terms that are used but not defined in the body of this ESA, including the exhibits hereto, shall be defined as set forth in this ARTICLE 1. Words defined in this ARTICLE 1 that are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.0 Associated Entities – Any and all of the employees, officers, agents, representatives, and independent contractors and subcontractors of the Competitive Supplier or of any of its corporate parents or subsidiaries, which provide goods or services to, or in any way assist, the Competitive Supplier in meeting its obligations under the ESA, but specifically excluding the Distribution Utility.

1.1 Bankruptcy - With respect to a Party, (i) such Party ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, provided that, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.2 Basic Utility Supply Service— Electricity supply service provided by the Distribution Utility to consumers who do not receive service from a Competitive Supplier or from the CCA Program. Eligible Consumers within the Municipality who receive Basic Utility Supply Service, and do not opt out, will be enrolled in the Program as of the Effective Date.

1.3 **Clean Energy Standard** - the clean energy standard for electric power for load serving entities established by New York State (including without limitation those mandated by the 2015 New York State Energy Plan, and the Order of the New York State Public Service Commission Adopting a Clean Energy Standard (Case 15-E-0302) (Issued August 1, 2016).

1.4 **Commercially Reasonable** - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations, as defined in the Uniform Business Practices or without limitation in additional applicable law and regulations, provided that in no event shall increased costs or economic hardship be an excuse for not performing a Party's obligations under this ESA.

1.5 **Community Choice Aggregation or CCA** – Municipal electricity procurement program, purchasing supply for the aggregated demand for all Participating Consumers within the Municipality.

1.6 **CCA Renewable Electricity Product** – 100% renewable energy supply product offered to Participating Consumers that consists of (a) 100% renewable energy supply that is composed of solar, hydro and/or wind power and that is bundled with voluntary Tier II Renewable Energy Certificates that, together with the minimum Clean Energy Standard requirements provide Renewable Energy Certificates for 100% of the energy consumed by Participating Consumers; and/or (b) energy supply that meets the minimum Clean Energy Standard sold together with voluntary Tier II Renewable Energy Certificates that, together, provide Renewable Energy Certificates for 100% of the energy consumed by Participating Consumers from solar, hydro and/or wind energy generating facilities, as further described and defined in Exhibit A (Prices and Terms).

1.7 **CCA Conventional Electricity Product** – electricity generation mix offered to Participating Consumers that meets the minimum Clean Energy Standard for electric power established by New York State, as further described and defined in EXHIBIT A – Part 2 (Prices and Terms) if applicable.

1.8 **Competitive Supplier or Energy Services Company or ESCO**– A load serving entity duly authorized to (a) serve Eligible Consumers within the service territory of the Distribution Utility and (b) conduct business in the State of New York as an Energy Services Company. With regard to this Agreement, Competitive Supplier is identified in the preamble above.

1.9 **Consolidated Billing** - A billing option that provides Participating Consumers with a single bill issued by the Distribution Utility combining delivery and supply charges from the Distribution Utility and Competitive Supplier respectively.

1.10 **Delivery Term** - The period of time for which prices for Firm Full-Requirements Power Supply have been established, as set forth in EXHIBIT A.

1.11 **Distribution Utility** - Owner or controller of the means of distribution of electricity that is regulated by the Public Service Commission in the Participating Municipality.

1.12 **Electronic Data Interchange or EDI** - The exchange of business data in a standardized format between business computer systems.

1.13 **Effective Date** - The day after the Execution Date that is immediately following the final day of the rescission period, which immediately follows the opt-out period, which occurs after notifications have been sent to Eligible Consumers.

1.14 **Eligible Consumer** – a consumer who:

- (a) is a part of an opt-out eligible service class and rate class in accordance with the Framework Order and all other applicable Orders of the PSC and Governmental Rules; and
- (b) who receives Basic Utility Supply Service from the Distribution Utility as of the Effective Date, or is a New Consumer (as defined below) at one or more locations within the geographic boundaries of the Municipality; but
- (c) excluding consumers who receive Basic Utility Supply Service and have requested not to have their account information shared by the Distribution Utility.

For the avoidance of doubt, an Eligible Consumer must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality, as such boundaries exist on the Execution Date of this ESA.

1.15 **ESA** - This Electricity Supply Agreement.

1.16 **Environmental Disclosure Program** -- The current and future rules and requirements applicable in New York State to the labelling and disclosures of electric supply. Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Labels in the State of New York, and the rules relating the New York Generation Attribute Tracking System (NYGATS).

1.17 **Federal Energy Regulatory Commission or FERC** -The United States federal agency with jurisdiction over interstate electricity sales, wholesale electric rates, hydroelectric licensing, natural gas pricing, and oil pipeline rates.

1.18 **Firm Full-Requirements Power Supply** - The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply at a fixed contract price including all those components regardless of changes in kWh usage or customer grouping during this contract term to Participating Consumers at the Point of Sale.

1.19 **Force Majeure** - Any cause not within the reasonable control of the affected Party which precludes that party from carrying out, in whole or in part, its obligations under this ESA, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; landslides; earthquakes; floods; other natural catastrophes; strikes, lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Municipality may not be asserted as an event of Force Majeure by the Municipality; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil or industrial disturbances or explosions. Nothing in this provision is intended to excuse any Party

from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of any Party shall not constitute an event of Force Majeure.

1.20 Framework Order -- The PSC Order establishing the framework for municipal CCA programs (Case 14-M-0224, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016)), as may be amended from time to time.

1.21 General Communications - The type of communications described and defined in ARTICLE 5.7 herein.

1.22 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, including without limitation the New York Public Service Commission and the New York Department of Public Service excluding the Municipality.

1.23 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law including without limitation the Joule Order, the Framework Order and all other Orders of the PSC, all as may be amended from time to time.

1.24 Joule Order – the PSC Order approving the Joule CCA Program (Case 14-M-0224, Order Approving Joule Assets’ Community Choice Aggregation Program with Modifications” (issued March 16, 2018)), all as may be amended from time to time.

1.25 kWh, kW - Kilowatt-hour and kilowatt, respectively.

1.26 Local Law – A local law or ordinance, adopted by Municipality according to General Municipal Law, which authorizes Municipality to join the Joule Community Choice program.

1.27 New Consumer – An Eligible Consumer as of or after the Effective Date, including one that opts in to the Program or moves into Municipality.

1.28 New Taxes - Any taxes not in effect as of the Effective Date enacted by a Governmental Authority or the Municipality, to be effective after the Effective Date with respect to Firm Full-Requirements Power Supply, or any Governmental Rule enacted and effective after the Effective Date resulting in application of any existing tax for the first time to Participating Consumers.

1.29 **NYISO** - The New York Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New York and the bulk transmission of electricity throughout the New York power grid.

1.30 **Participating Consumer** – an Eligible Consumer who is enrolled in the Program, either because consumer receives Basic Utility Supply Service from the Distribution Utility as of the Effective Date and has not opted out, or is a New Consumer.

1.31 **Parties** - The Municipality, the Program Administrator, and the Competitive Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.32 **Point of Delivery** - The boundary of the Distribution Utility's electricity franchise, or the point at which the Competitive Supplier delivers the power to the Distribution Utility.

1.33 **Point of Sale** - The electric meter for each Participating Consumer's account, as designated by the Distribution Utility, such that all line loss costs are included in Competitive Supplier price to bring power to the meter.

1.34 **Program** - Joule Community Choice Aggregation Program.

1.35 **Program Administrator** – Joule, authorized by PSC to put out for bid the total amount of electricity being purchased by Participating Consumers.

1.36 **PSC or DPS** -- The New York State Public Service Commission or the New York State Department of Public Service acting as Staff on behalf of the PSC, or any successor state agency.

1.37 **Qualifying Regulatory Event** — A Regulatory Event that impacts or provides opportunity for substantially all consumers in the same rate class, but not including a Regulatory Event that applies uniquely to Competitive Supplier.

1.38 **Regulatory Event** -- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation.

1.39 **Renewable Energy Certificate** –A renewable energy certificate registered in, and fully compliant with, the New York (State) Generation Attribute Tracking System ("NYGATS") operating rules, dated May 18, 2018, as may be amended from time to time.

1.40 **Retail Price** - As set forth in EXHIBIT A.

1.41 **Service Commencement Date** - The date of a Participating Consumers' first meter read date after the Effective Date, or as soon as necessary arrangements can be made with the Distribution Utility thereafter.

1.42 **Term** - As defined in ARTICLE 4.1.

1.43 **Uniform Business Practices** – Regulations governing the business practices of utilities and Energy Services Companies with regards to service, billing, marketing, data, and customer rights, issued by the New York State Public Service Commission (Case 98-M-1343).

ARTICLE 2 -- RIGHTS GRANTED

2.1 GENERAL DESCRIPTION AND LIMITATIONS

Competitive Supplier is hereby granted the exclusive right to be the default provider of Firm Full-Requirements Power Supply to Participating Consumers pursuant to the terms of this ESA. For the avoidance of doubt, Competitive Supplier shall be authorized to supply Firm Full- Requirements Power Supply only to Participating Consumers enrolled in the plan or plans managed by the Program Administrator, and the Distribution Utility will continue to have the right and obligation to supply electricity to Eligible Consumers who opt-out of the Program and remain on, or return to, Basic Utility Supply Service, until changes in law, regulation or policy may allow otherwise.

In accordance with ARTICLE 3 below, all Eligible Consumers shall be automatically enrolled in the Program unless they choose to opt-out. In the event the geographic boundaries of the Municipality change during the term of this ESA, Competitive Supplier shall only be obligated to supply Firm Full-Requirements Service to those Participating Consumers located within the Municipality as such boundaries existed on the Effective Date of this ESA. As between the Parties, the Competitive Supplier has the sole obligation of making appropriate arrangements with the Distribution Utility, and any arrangements which may be necessary with the NYISO so that Participating Consumers receive the electricity supplies to be delivered pursuant to this ESA.

The Municipality specifically authorizes the Distribution Utility to provide, and Competitive Supplier the right to obtain and utilize as required, all billing and energy consumption information for Participating Consumers as is reasonably available from the Distribution Utility. Competitive Supplier shall request consumption data for individual Participating Consumers from the Distribution Utility via EDI or via other adopted standards such as secure ftp. If further action is required by the Distribution Utility to authorize Competitive Supplier to receive such consumption and billing data, the Program Administrator, on behalf of the Municipality agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier, if so requested by it, in obtaining such information for Participating Consumers, including, without limitation, assisting Competitive Supplier in obtaining permission from such Eligible Consumers and/or the PSC, where necessary as a prerequisite to the provision of such information. Competitive Supplier shall not be responsible for any errors that Competitive Supplier or any of

its Associated Entities makes in the provision of Firm Full-Requirements Power Supply only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

2.2 NO THIRD PARTY BENEFICIARIES

Except as specifically provided in ARTICLE 18.12, this ESA does not and is not intended to confer any rights or remedies upon any person other than the Parties. This ESA facilitates rights under the Joule Order and Local Law for Eligible Consumers to purchase electricity from the Competitive Supplier in accordance with this ESA. The Municipality, or Program Administrator in support of the Municipality, has the right, but not the obligation, to advocate on behalf of the Eligible Consumers interested in contracting for electric supply and on behalf of all Participating Consumers, unless otherwise prevented by law.

2.3 COMPLIANCE WITH LAWS

The Municipality represents and covenants that the Local Law has been duly adopted and will remain in effect for the term of this ESA.

2.4 CONDITIONS PRECEDENT

The Municipality's obligations under this ESA shall be conditioned upon the Competitive Supplier fulfilling the following requirements:

- (a) maintain Competitive Supplier's license from PSC (as such term is defined in the Local Distribution Utility's Terms and Conditions for Competitive Suppliers);
- (b) execute any appropriate NYISO applications and agreements;
- (c) obtain authorization from the FERC to sell power at market-based rates;
- (d) complete data (e.g. EDI, secure ftp) testing with Distribution Utility;
- (e) provide all other documentation required by the Distribution Utility; and
- (f) satisfying all insurance requirements set forth in ARTICLE 16 or elsewhere in this ESA.

If Competitive Supplier has not fulfilled all such requirements by the Service Commencement Date, then the Municipality may terminate this ESA without any liability from Municipality to the Competitive Supplier.

2.5 OWNERSHIP AND USE OF ELIGIBLE CONSUMER DATA

Competitive Supplier acknowledges that: 1) all Eligible Consumer data (including addresses, telephone numbers or other identifying information) made available to Competitive Supplier on behalf of Municipality for such data must be protected by the Competitive Supplier and its Associated Entities to the fullest extent possible under the law and all PSC Orders; 2) the Competitive Supplier does not hold any permanent right, title or interest in this data; and 3) this

data is to be obtained, retained and used by the Competitive Supplier and its Associated Entities solely to provide Firm Full-Requirements Power Supply to Participating Consumers and to render other services expressly required or permitted under this ESA. Any other use of Eligible Consumer data other than for purposes directly related to this ESA is not permitted without the prior written consent of the Municipality. Competitive Supplier may share such Eligible Consumer data with third-party vendors as reasonably necessary to accommodate Competitive Supplier's provision of Firm Full-Requirements Power Supply or other performance pursuant to this ESA (including, without limitation, collection of receivables), provided that Competitive Supplier will take reasonable measures to secure the confidential nature of such data and the restrictions set forth in this ARTICLE 2.5 and elsewhere in this ESA, and that any vendor or subcontractor is also bound by the terms and conditions of this ESA, especially those regarding data confidentiality and prohibition on non-permitted uses of data through a signed non-disclosure agreement, a copy of which will be provided to the Municipality. Except as expressly provided in this ESA, and as otherwise permitted by law, Competitive Supplier and its Associated Entities shall not disclose any Eligible Consumer data to any third-party and Competitive Supplier and its Associated Entities shall take all Commercially Reasonable measures to protect Eligible Consumer data from access by, or beneficial use for, any third-party. To the extent that the provision of Firm Full-Requirements Power Supply or other services under this ESA requires that Competitive Supplier and its Associated Entities have access to or make use of any Eligible Consumer data, Competitive Supplier and its Associated Entities shall treat such Eligible Consumer data as confidential information. Competitive Supplier may use Eligible Consumer data to engage in direct marketing only during the term of this ESA and subject to the terms set forth in ARTICLE 18.3. A violation of this ARTICLE 2.5 shall be grounds for termination under ARTICLE 4.2(a). Competitive Supplier agrees violation of this ARTICLE 2.5 shall constitute irreparable harm.

Without limiting the foregoing, Competitive Supplier agrees to comply with all data security requirements of, including without limitation the terms of any data security agreement required by, the PSC, the DPS and any Distribution Utility in relation to the CCA and any confidential utility information disclosed to Competitive Supplier in performance of this Agreement. Competitive Supplier further agrees to execute any agreement in relation thereto as required by the PSC, the DPS and any Distribution Utility.

Additionally, Competitive Supplier agrees that it shall be fully and solely responsible for payment of all fees (including reimbursement of any such fees paid for by Program Administrator) in connection with acquisition of customer data from the applicable Distribution Utility in relation to the performance of this ESA; provided, however, that this provision shall not apply to the acquisition of aggregated data by Program Administrator or Municipality prior to the execution of this Agreement,

2.6 ENVIRONMENTAL DISCLOSURE PROGRAM

Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Program in the State of New York including without limitation all rules and regulations concerning labelling.

ARTICLE 3 -- CONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT**3.1 CONSUMER CHOICE**

The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to Joule Order, Local Law, and the Program, to change their source of electricity supply, as set forth in ARTICLE 2.1. The Parties represent, warrant and covenant to each other that they shall not interfere with the right of Participating Consumers to opt-out of the Program, and shall comply with any rules, regulations or policies of PSC, the Distribution Utility and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Not inconsistent with the above, however, the Parties may take Commercially Reasonable measures to encourage Participating Consumers to affirmatively agree to remain in the Program, consistent with any Governmental Rules.

3.2 NOTIFICATION TO NEW CONSUMERS OF OPT-OUT RIGHTS

Consistent with the requirements of any applicable Governmental Rules, and within a reasonable time after the Distribution Utility notifies Competitive Supplier of the existence of a New Consumer and has provided to Competitive Supplier such New Consumer's account number, service and billing address, and other pertinent contact information, Competitive Supplier shall notify such New Consumer (i) of the date on which such New Consumer will be automatically enrolled in the Program, and (ii) that the Competitive Supplier will be providing Firm Full-Requirements Power Supply to such New Consumer as of the same date, subject to the opt-out provisions of the Joule Order, Local Law, and the Program ("**Opt-Out Notice**"). The Opt-Out Notice shall be mailed to each such New Consumer prior to the date of automatic enrollment and shall: (i) prominently state all charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in EXHIBIT A as well as fully disclose the prices and terms then being offered for Basic Utility Supply Service by the Distribution Utility; (iii) state how such New Consumer may opt-out of the Program prior to enrollment and remain on Basic Utility Supply Service from the Distribution Utility; and (iv) state how all Participating Consumers, subsequent to enrollment, will also have the right to opt-out at any time and return to Basic Utility Supply Service or choose a new Competitive Supplier without paying a fee or penalty to Competitive Supplier. All forms of such notices must be approved in advance by the Municipality.

In providing the notifications set forth in this ARTICLE 3.2, and in otherwise conducting the activities in ARTICLE 3.4 below, the Competitive Supplier must rely upon information provided to it by the Distribution Utility for the purpose of performing its obligations. Competitive Supplier will not be responsible for any errors in connection with notification of Eligible Consumers only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

3.3 CONSUMER AWARENESS

Upon mutual agreement concerning the content and method, either the Competitive Supplier, Municipality, or Program Administrator may conduct consumer awareness efforts at its sole expense.

3.4 ENROLLMENT

3.4.1 Participating Consumers

All Eligible Consumers as of the Effective Date will be enrolled in the Program, thus becoming Participating Consumers, under the terms of this ESA unless they opt-out during the 33-day period following initial communication through the opt-out letter. Participating Consumers may disenroll from the Program at any time thereafter with no fee or penalty. The Municipality shall authorize the Distribution Utility to provide to Competitive Supplier or to an alternative designee of the Program Administrator who has agreed in writing to a non-disclosure agreement, a copy of which will be provided to the Municipality, a list of Participating Consumers as of the Effective Date, as well as such Participating Consumer's service and billing addresses, and any other information necessary for Competitive Supplier to commence Firm Full-Requirements Power Supply to such Participating Consumers as of the Service Commencement Date.

3.4.2 New Consumers

If New Consumers elect not to opt-out of the Program as provided in ARTICLE 3.2, such New Consumers will be automatically enrolled by Competitive Supplier in the Program. These New Consumers electing not to opt out of the Program as provided in ARTICLE 3.2 shall be enrolled in the Program at the rates reflected in EXHIBIT A. Competitive Supplier shall enroll such New Consumers in accordance with applicable PSC and Distribution Utility rules.

3.4.3 Eligible Consumers Opting Out

At any time during the Term of this ESA, Eligible Consumers who have previously opted out of the Program may request that they be enrolled or re-enrolled in the Program. Competitive Supplier shall provide Firm Full-Requirements Power Supply to such Eligible Consumers at a price determined by the then-prevailing market conditions, as defined in EXHIBIT A. Following mutually agreed upon procedures, the Competitive Supplier is responsible for accurately and promptly transmitting information regarding Eligible Consumers, to the Distribution Utility. The Competitive Supplier shall be responsible for enrolling all Participating Consumers through data (e.g. EDI or secure ftp) transactions submitted to the Distribution Utility for initial enrollment in the aggregation and all enrollments thereafter.

3.4.4 Consumers Served by Third-Parties

Consumers being served under other competitive supply programs offered by third-parties will not be automatically enrolled as Participating Consumers under this ESA when such program terminates or is otherwise completed. Competitive Supplier agrees that consumers under such third-party competitive supply programs may affirmatively opt-in at any time and receive Firm Full-Requirements Power Supply, thereby becoming Participating Consumers. New Consumers who opt-in as provided in this ARTICLE 3.4.4 shall be enrolled in the Program at the rates reflected in EXHIBIT A.

3.4.5 Termination Fees

There shall be no termination fees for any Participating Consumers to disenroll from the Program.

ARTICLE 4 -- TERM OF CONTRACT AND TERMINATION

4.1 TERM

This ESA shall commence on the Execution Date, provided, however, that Competitive Supplier's obligation to provide Firm Full-Requirements Power Supply shall commence on the Service Commencement Date, and shall terminate with the Participating Consumers' "Final Meter Read Date" determined by the Parties and set forth in EXHIBIT A Parts 1 and 2, as applicable, in the paragraphs with the heading "Term", unless terminated earlier under ARTICLE 4.2 below.

4.2 TERMINATION

This ESA may be terminated at any time upon written notice:

- (a) by the Municipality, or the Competitive Supplier, if the other Party fails to remedy or cure any breach of any material provision or condition of this ESA (including, but not limited to, ARTICLE 2.5 and ARTICLE 9), but excluding the failure to provide or arrange for Firm Full-Requirements Power Supply, which is addressed in ARTICLE 4.2(f), within sixty (60) days following written notice to do so by the non-breaching party; or
- (b) by the Municipality, or the Competitive Supplier, if any material provision or condition of this ESA be finally adjudged invalid by any court of competent jurisdiction, or if PSC exercises any lawful jurisdiction so as to invalidate or disapprove this ESA in whole or in significant part; or
- (c) by the Municipality, if a Regulatory Event that is not a Qualifying Regulatory Event affects the Competitive Supplier and Competitive Supplier incurs costs and chooses to allocate and collect excess costs from Participating Consumers; or
- (d) by the Municipality, if a court, PSC or other lawful authority makes an adjudication that nullifies or materially alters any of the provisions of ARTICLE 6; or
- (e) by the Municipality, i) if an order is entered against the Competitive Supplier approving a petition for an arrangement, liquidation, dissolution or similar relief relating to Bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (ii) immediately if

- the Competitive Supplier shall file a voluntary petition in Bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to Bankruptcy, insolvency or other relief for debtors or shall seek, consent to, or acquiesce in appointment of any trustee, receiver, or liquidation of any of Competitive Supplier's property; or
- (f) notwithstanding the foregoing, the failure of Competitive Supplier to provide or arrange for Firm Full-Requirements Power Supply to Participating Consumers, in the absence of Force Majeure or the Municipality's failure to perform, shall constitute an act of default, and the Municipality may terminate this ESA upon giving written notice and without a cure period. In the event the Competitive Supplier has performed its obligations hereunder and its failure to arrange for or provide Firm Full-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Utility, or the NYISO, the Competitive Supplier's failure shall not be deemed to be an act of immediate default and would be subject to remedy or cure as provided in ARTICLE 4.2((a)).

4.3 OBLIGATIONS UPON TERMINATION

Following termination of this ESA, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the ESA and Competitive Supplier shall continue to have the right to collect all monies due for services rendered to that date.

Upon termination, Competitive Supplier shall have all Participating Consumers switched back to obtaining supply from the Distribution Utility, or support the Distribution Utility as reasonably possible to switch to another supplier selected by Municipality, by submitting all consumer drops via EDI or alternative data protocol to the Distribution Utility, or such other supplier, in a form acceptable to the Distribution Utility, or such other supplier.

4.4 EXTENSION

The ESA may be extended beyond the termination date established in ARTICLE 4.1 by mutual written agreement of the Parties. Any new pricing terms shall be added to and replace EXHIBIT A as EXHIBIT A Extension. Upon any such extension, this ESA shall continue to be in effect, and all provisions of the ESA shall retain the same force and effect as before the extension, unless it is terminated by any Party pursuant to the provisions of ARTICLE 4.2 or until the date stated in such extension.

ARTICLE 5 -- CONTINUING COVENANTS

The Competitive Supplier agrees and covenants to perform each of the following obligations during the term of this ESA.

5.1 STANDARDS OF MANAGEMENT AND OPERATIONS

In performing its obligations hereunder, during the term of this ESA, the Competitive Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out

its responsibilities; that it delivers or arranges to deliver an uninterrupted supply of such amounts of electricity to the Point of Delivery as are required under this ESA; that it complies with all relevant industry standards and practices for the supply of electricity to Participating Consumers; and that, at all times with respect to Participating Consumers, it exercises good practice for a Competitive Supplier and employs all Commercially Reasonable skills, systems and methods available.

5.2 CUSTOMER SERVICE ACCESS

The Competitive Supplier agrees to provide, or cause to be provided, certain customer services to Participating Consumers. Such services shall be reasonably accessible to all Participating Consumers, shall be available during normal working hours, shall allow Participating Consumers to transact business they may have with the Competitive Supplier, and shall serve as a communications liaison among the Competitive Supplier, the Municipality, and the Distribution Utility. A toll-free telephone number will be established by Competitive Supplier and be available for Participating Consumers to contact Competitive Supplier during normal business hours (9:00 A.M.- 6:00 P.M. Eastern Time, Monday through Friday), as well as 9:00am-1:00pm on Saturday, to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier. To the extent practicable, the Municipality will post program-related information on the Municipality's website which will be available to Participating Consumers for general information, comparative pricing, product, and service information, and other purposes.

5.3 RESPONDING TO REQUESTS FOR INFORMATION

To the extent authorized by the Participating Consumer(s) and to the extent such individual permission is required by law, the Competitive Supplier shall, during normal business hours (as set forth above), respond promptly and without charge therefore to reasonable requests of the Municipality for information or explanation regarding the matters covered by this ESA and the supply of electricity to Participating Consumers. Competitive Supplier agrees to designate a service representative or representatives (the "**Service Contacts**") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s).

Whenever necessary to comply with this ARTICLE 5.3, the Service Contacts shall call upon other employees or agents of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this ARTICLE 5.3 shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Participating Consumers, or to comply with any regulation of PSC regarding customer service.

5.4 ARRANGING FOR FIRM FULL-REQUIREMENTS POWER SUPPLY

Competitive Supplier shall participate in or make appropriate arrangements with NYISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of Firm Full-Requirements Power Supply to the Distribution Utility for delivery to Participating Consumers, and exercise all Commercially Reasonable efforts to

cooperate with NYISO or any other entity to ensure a source of back-up power in the event that Competitive Supplier is unable to deliver Firm Full-Requirements Power Supply to the Point of Delivery. In the event the Competitive Supplier is unable to deliver sufficient electricity to the grid to serve Participating Consumers, the Competitive Supplier shall utilize such arrangements and exercise all Commercially Reasonable efforts as may be necessary to continue to serve Participating Consumers under the terms of this ESA, and shall bear any costs it may incur in carrying out these efforts and obligations. Competitive Supplier shall not be responsible to the Municipality or any Participating Consumers in the event that, through no fault of the Competitive Supplier or its Associated Entities, the Distribution Utility disconnects, curtails or reduces service to Participating Consumers (notwithstanding whether such disconnection is directed by NYISO).

5.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to the Point of Delivery to all Participating Consumers on a non-discriminatory basis; provided, however, that those prices and other terms may vary in accordance with reasonably established rate classifications (e.g., residential and small commercial as defined by the Distribution Utility) or by such other categories as appear in EXHIBIT A. To the extent applicable, Competitive Supplier's prices, terms and conditions shall be in accordance with the New York General Laws, the regulations of PSC, and other applicable provision of law. To the extent required by law and/or the conditions of any PSC approval of this ESA, the Competitive Supplier may not deny service to an Eligible or Participating Consumer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon any Participating Consumer's failure to pay bills from the Competitive Supplier, subject to any provisions of law or applicable PSC orders or regulations. Provision of electric energy supply shall be subject to reasonable credit policy, to the extent permitted by law, as described in EXHIBIT A.

In any event, should either Program Administrator or Municipality actively achieve and document (e.g. to the satisfaction of the New York State Public Service Commission and the Distribution Utility) reduction in capacity tag buying obligations, Competitive Supplier will pay or distribute benefits from these tag reductions to Participating Consumers at the NYISO strip clearing price for the appropriate zone (i.e., Zones A through K in New York State), in which the capacity tag reduction is certified by appropriate party. Program Administrator agrees it does not intend to pursue any actions that would increase the capacity tag obligation to Competitive Supplier.

Should either Program Administrator or Municipality actively achieve reduction in buying requirements for other mandated purchases, Competitive Supplier will liquidate resources it has purchased to serve this contract, through the NYISO platform and pay or distribute benefits to Participating Consumers, from this reduction in buying requirements that Competitive Supplier receives when Supplier liquidates these purchased resources.

5.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with the Municipality in the drafting and sending of messages and information to Eligible or Participating Consumers concerning the Program or any matter arising under or related to this ESA. Competitive Supplier shall, prior to sending, whether directly or through its Associated Entities, any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "**General Communications**") to Eligible or Participating Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such General Communication to the Municipality and to Program Administrator for its review to determine whether it is consistent with the purposes and goals of the Municipality and Program Administrator. The Municipality or Program Administrator shall have the right to disapprove such General Communications and suggest revisions within seven (7) calendar days (not including weekends and holidays) of receiving a copy thereof if it finds the communication inconsistent with the purposes and goals of the Municipality, factually inaccurate or likely to mislead; provided, however that there shall be no such right of disapproval for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; or (b) in the nature of routine monthly or periodic bills, or collection notices, except that, with regard to any bill insert or message included at the bottom of such bill not within the scope of (a) above, Municipality or Program Administrator shall have such right of disapproval. If the Municipality objects to any General Communication on the grounds it is inconsistent with the purposes and goals of the Municipality, the Competitive Supplier, after consultation as provided in this ARTICLE 5.6, may nevertheless elect to send such General Communication provided that it: (i) clearly indicates on such communication that it has not been endorsed by the Municipality, and (ii) has previously provided all Participating Consumers a meaningful chance to opt not to receive such General Communications. The Municipality may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Municipality, provided, however, any such right of rejection or exclusion shall not apply to Competitive Supplier's notice to exercise or enforce its rights under the ESA or any agreement with customer, including but not limited to any notice of Force Majeure or change in law.

5.7 COMMUNICATION OF INSERTS AND MESSAGES

Competitive Supplier agrees that if it communicates with Participating Consumers directly (or if it is provided a certain number of characters on the regular bill for discretionary communication), and unless prevented for regulatory or other such reasons from doing so, it shall allow the Municipality or Program Administrator to include no less than three (3) inserts per year into such communications, provided that the Program Administrator or Municipality, where appropriate pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Competitive Supplier may incur as a result of including such insert. Competitive Supplier shall have the right to disapprove such General Communications (other than those pertaining to the Municipality's demand-side management, energy efficiency programs and technology, and renewable energy programs, if applicable) and suggest revisions within seven (7) calendar days

after receipt (not including weekends and holidays) if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however that there shall be no such right of disapproval for any communication which has been ordered by PSC or any other Governmental Authority to be so communicated.

5.8 PARTICIPATING CONSUMER LISTS

To the extent not prohibited by any Governmental Rule or expressly prohibited by any Participating Consumer(s), the Competitive Supplier shall, upon request of the Municipality or of Program Administrator, provide aggregate consumption information as the Municipality or Program Administrator may request to the extent such information is available to Competitive Supplier.

Competitive Supplier shall provide Participating Consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month, subject to non-disclosure agreement for consumers who have not requested that their personal information be denied to Program Administrator or to Municipality.

5.9 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this ESA.

5.10 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier requests the Municipality's assistance in obtaining such consent or approval and the Municipality anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine whether it will continue to request the Municipality's assistance, and if so, the Competitive Supplier shall reimburse the Municipality for all costs, up to the estimated dollar amount, reasonably incurred by the Municipality in connection with such efforts.

5.11 CREDITWORTHINESS

Competitive Supplier represents, warrants and covenants that it is, and shall be, for the Term of this ESA, in compliance with all credit policies and requirements of the New York Independent System Operator.

5.12 COMPLIANCE WITH RFP

Competitive Supplier (i) represents and warrants that all representations and statements of fact made as part of its RFP bid response are true and accurate as of the Effective Date; (ii) covenants that it shall perform all obligations of Competitive Supplier made as part of its RFP bid response; and (iii) to its knowledge, as of the Effective Date, is compliant with the terms and conditions set forth in the RFP.

ARTICLE 6 -- ROLE OF THE MUNICIPALITY

Under this ESA, the Municipality shall not actually receive, take title to, or be liable for the supply or delivery of Firm Full-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Municipality is established under the Joule Order and Local Law and may include negotiating the terms and conditions under which Firm Full- Requirements Power Supply will be provided by the Competitive Supplier under this ESA. It is the sole obligation of the Competitive Supplier to arrange for delivery of Firm Full- Requirements Power Supply to Participating Consumers. The Parties agree that, with regards to electricity, Municipality is not a “public utility company” or providing any “public utility service” within the meaning of GML 360 and ARTICLE 4 of Public Service Law as a result of this ESA. Should a court, PSC, or other lawful authority adjudicate to the contrary, the provisions of ARTICLE 4.2 (a) shall apply. However, the Municipality may be considered to be operating a municipal load aggregation plan pursuant to Joule Order and Local Law. The Competitive Supplier hereby agrees that it will take no action, whether directly or through its Associated Entities, that would make the Municipality liable to any Participating Consumer due to any act or failure to act on the part of the Competitive Supplier or its Associated Entities relating to the delivery or supply of Firm Full-Requirements Power Supply.

Municipality shall conduct outreach to the community in addition to the initial program notification letter as required by the Public Service Commission, which will be delivered at the Competitive Supplier’s expense, with a Business Reply Mail insert to allow Eligible Consumers to opt out without postage expense. As required by the Public Service Commission, Municipality will report on their endeavors to Program Administrator to inform residents on the Program and “non-demand charge” commercial businesses. In case of any doubt, Municipality shall retain final control of content related to all communications.

ARTICLE 7 -- ROLE OF PROGRAM ADMINISTRATOR

7.1 PROGRAM ADMINISTRATOR RIGHTS AND DUTIES

Program Administrator is responsible for Program organization, administration, procurement, and communications, unless otherwise specified herein or agreed in writing.

Program Administrator, agrees to:

- (a) Provide the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, requested information about and documentation of the actions undertaken by the Municipality in furtherance of enabling participation in the Program;
- (b) Prepare, or cause to be prepared, and provide the Municipality with requested and non-confidential information that the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, provide to the Program Administrator in furtherance of establishing the Program;

- (c) Upon execution hereof, initiate all the necessary steps to secure the needed information to fulfill the customer notification requirements of the Joule Order, including but not limited to the following: file final versions of customer opt-out letters, after the supply procurement is finalized, that provide details on Program contracts.
- (d) File any request for proposals or similar solicitation seeking electricity supply or other energy services and any draft correspondence on such services with DPS Staff for review.
- (e) Provide the Municipality with timely communications content to effect customer notification requirements for approval, such approval not to be unreasonably withheld, given the projected schedule of Program's implementation; and
- (f) Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program; and
- (g) Fulfill any other responsibilities as set forth in this agreement herein.

7.2 PROGRAM ADMINISTRATOR FEE

Competitive Supplier shall pay Program Administrator \$0.0008 for each kWh delivered, invoiced and paid for by Participating Consumers during the Term ("**Program Administrator Fee**" or "**Fee**"). The Parties agree that Competitive Supplier will remit the Program Administrator Fee to the Program Administrator, pursuant to the terms of this ESA. Competitive Supplier shall pass through such payments to Program Administrator for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

7.3 PAYMENT OF FEE

Payment to Program Administrator will be made monthly by Automated Clearing House ("**ACH**") (an electronic network for financial transactions) to the account set forth in EXHIBIT B hereto or as otherwise provide by Program Administrator, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Consumers. The Program Administrator Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Consumer during the calendar month two months prior. For example, full payments received in January will be paid by the end of March. If Competitive Supplier has paid a past Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due under this ESA and provide explanation of the error in sufficient detail.

Program Administrator shall provide the Municipality with a reasonably detailed accounting not less than annually of the program impact (e.g., rates paid vs utility rate), financial and other, including revenues received and expenses incurred on communication, administration and legal expenses.

7.4 INDEPENDENT CONTRACTOR

The Parties agree that Program Administrator is not an agent or employee of Competitive Supplier for any purpose. All expenses which are incurred by Program Administrator in connection with this ESA shall be borne wholly and completely by Program Administrator, except as otherwise agreed herein or in writing. Program Administrator shall be responsible for all state, federal, and local taxes, including estimated taxes and social security and employment reporting for Program Administrator or any employees or agents of Program Administrator.

ARTICLE 8 -- PRICES AND SERVICES: BILLING**8.1 SCHEDULE OF PRICES AND TERMS**

Competitive Supplier agrees to provide Firm Full-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in EXHIBIT A to this ESA, which exhibit is hereby incorporated by reference into this ESA.

8.2 OBLIGATION TO SERVE

As between the Parties, Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide Firm Full-Requirements Power Supply for all of the Participating Consumers under the Program. Competitive Supplier, except as explicitly limited by the terms included in EXHIBIT A, shall be obligated to accept all Participating Consumers, regardless of their location or energy needs provided such Participating Consumers are eligible under the applicable regulations and tariffs of the Distribution Utility.

8.3 METERING

The Parties understand and acknowledge that the Distribution Utility will be responsible for any metering which may be required to bill Participating Consumers in accordance with the rules governing the supply of electricity in the service territory of the Distribution Utility.

8.3.1 Title

Title to Firm Full-Requirements Power Supply will transfer from Competitive Supplier to Participating Consumers at the Point of Sale. In accordance with the rules governing the supply of electricity in the service territory of the Distribution Utility, Competitive Supplier will be responsible for any and all losses incurred on the local network transmission systems and distribution systems, as determined by the Distribution Utility.

8.3.2 Billing and Payment

Unless otherwise specified in an exhibit to this ESA, all billing under this ESA shall be based on the meter readings of each Participating Consumer's meter(s) performed by the Distribution Utility. Competitive Supplier shall cause the Distribution Utility to prepare and mail bills to Participating Consumers monthly. The Competitive Supplier shall adopt the billing and payment terms offered by the Distribution Utility to its Eligible Consumers on Basic Utility Supply Service. If actual meter date is unavailable, the Competitive Supplier may cause the Distribution Utility to

bill based on its good faith estimates of usage. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

8.3.3 Regional and Local Transmission

The prices quoted in EXHIBIT A do not include current and future charges for distribution service costs collected by the Distribution Utility under its distribution service tariff or local transmission costs as may be imposed by NYISO or individual electric utilities that have FERC transmission tariffs. The Competitive Supplier understands that these costs will be collected by the Distribution Utility. If, in the future, Competitive Supplier becomes responsible for such distribution or transmission costs, Competitive Supplier shall be entitled to collect such costs from Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

8.3.4 Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of Firm Full-Requirements Power Supply required to be collected by the Competitive Supplier shall be included on the Participating Consumer's bill and shall be remitted to the appropriate taxing authority by Competitive Supplier. For avoidance of doubt, it is understood that the Competitive Supplier shall include gross receipts tax in its preparation of Participating Consumers' bills. Participating Consumers shall be responsible for all taxes that are customarily imposed upon a purchaser of electricity and are associated with electricity consumption under the ESA. The Parties acknowledge and agree that Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier. For avoidance of doubt, Competitive Supplier shall be responsible for all taxes imposed upon it as a supplier of electricity, including taxes on Competitive Supplier's income.

ARTICLE 9 -- ADDITIONAL COMPLIANCE BY COMPETITIVE SUPPLIER

Competitive Supplier agrees that it, and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA, will comply with the applicable provisions of the Joule Order and any regulations, orders or policies adopted pursuant thereto.

In addition, Competitive Supplier specifically represents, warrants and agrees that it that it has reviewed and has fully complied and will fully comply with, all relevant regulations, requirements, and orders of the FERC, NYISO, and PSC.

Competitive Supplier shall comply with all requirements of the Request for Proposal issued in relation to this ESA, and to the extent such requirements conflict with the terms of this ESA than the terms of this ESA shall govern.

ARTICLE 10 -- SERVICE PROTECTIONS FOR CONSUMERS

10.1 UNIFORM BUSINESS PRACTICES COMPLIANCE

Competitive Supplier agrees that it and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA shall comply with the provisions of the Uniform Business Practices, as applicable to Competitive Suppliers, and any amendments thereto, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program. In addition, the Competitive Supplier and its Associated Entities agrees to comply with any code of conduct or policies the PSC may adopt in accordance with the Joule Order and to all related Orders of Case 14-M-0224 to which the Program Administrator is required to adhere, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program.

10.2 DESCRIPTION OF SUPPLIER'S PROCEDURES AND SERVICES

The Competitive Supplier shall, on or before the Effective Date, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Municipality (which approval shall not be unreasonably withheld). Such written description shall also include the Competitive Supplier's plans for protecting the rights and protections of Participating Consumers under the Home Energy Fair Practices Act which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. If the Participating Consumer(s) so permit(s) or to the extent such permission is required by law or the terms of any PSC order with respect to this ESA, the Competitive Supplier agrees to provide notice to the Municipality of any consumer complaints received from a Participating Consumer, and the Municipality shall have the right, but not the obligation, to participate (directly or through the Program Administrator) in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by PSC regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with PSC regulations and policies, shall be deemed grounds for termination of this ESA, at the discretion of the Municipality after providing written notice by the Municipality or the Program Administrator, of such failure to the Competitive Supplier and allowing the Competitive Supplier sixty (60) days to cure such failure.

10.3 DISPUTE RESOLUTION

In accordance with the Uniform Business Practices, in the event of a dispute regarding an invoice or Competitive Supplier's service, whether directly or through its Associated Entities, under this ESA, a Participating Consumer may initiate a formal dispute resolution process by providing written notice to the PSC. The PSC will assist the Parties in reaching a mutually acceptable resolution. If no such resolution is reached within 40 calendar days of receipt of the formal written notice, any Party may request an initial decision from PSC. Parties may appeal this decision.

ARTICLE 11 -- NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Competitive Supplier agrees that it shall conduct its operations and activities under this ESA in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees, and will require all Associated Entities to do the same.

ARTICLE 12 -- POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION**12.1 POWER SUPPLY INFORMATION****12.1.1 Monthly Report of Sales**

Competitive Supplier shall provide the Program Administrator with a monthly report of sales which will contain at a minimum: (i) the actual aggregate kWh sales, rate and commission due to Program Administrator for each meter read of the reporting period (with billing “from and to” date); (ii) account status (e.g., active or cancelled); (iii) the number of Participating Consumer accounts active in each meter read of the reporting period; and (iv) other information reasonably requested. In addition, the aggregate kWh sales and number of Participating Consumer accounts shall be listed in the report both by Service Class and rate. The monthly report will be due to the Program Administrator within thirty (30) days following the close of each month. This information shall be provided in electronic format, satisfactory to the Program Administrator.

12.1.2 Consumer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain consumer-related data in electronic form including utility account number, billing name, billing address, service address historical usage, demand, and ICAP (Installed Capacity) data. A violation of this ARTICLE 12.1.2 shall be grounds for termination under ARTICLE 4.2(a) unless such violation is due to a system or reasonable administrative error and the Competitive Supplier demonstrates to the Municipality’s satisfaction that such system or administrative error exists and that the Competitive Supplier is acting in good faith to resolve such issue.

12.1.3 Standard of Care

Competitive Supplier and its Associated Entities shall use all Commercially Reasonable efforts in preparing and providing any information or data required under the ESA. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall provide such information or data to the Municipality or its agent within a Commercially Reasonable time.

12.2 POWER SUPPLY REPORT

Unless the Environmental Disclosure Program labeling requirement is waived by PSC, Competitive Supplier shall present a copy of the current Environmental Disclosure Program label as and when required by PSC of all Competitive Suppliers to be disclosed to their Participating Consumers, which includes information pertaining to Competitive Supplier's power supply and a

reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating Consumers pursuant to this ESA, except to the extent such disclosure would violate any confidentiality obligations of Competitive Supplier.

12.3 BOOKS AND RECORDS

Competitive Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of PSC, FERC, and any other Governmental Authority and accounting standards. The Municipality will have electronic access to any reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Municipality and at the Municipality's reasonable expense, Competitive Supplier or its Associated Entities shall provide reasonable back up for any charge under this ESA questioned by the Municipality.

12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Municipality a copy of each public periodic or incident-related report or record relating to this ESA which it files with any New York or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Competitive Supplier is required by law or regulation to keep such reports confidential. Competitive Supplier shall be reimbursed its reasonable costs of providing such copies, if only available in hard copy.

ARTICLE 13 -- RESOLUTION OF DISPUTES; CHOICE OF LAW AND FORUM

13.1 CHOICE OF LAW AND FORUM

This ESA and the rights of the Parties shall be interpreted and determined in accordance with the laws of the State of New York without respect to conflicts-of-laws principles. Any litigation arising hereunder shall be brought solely in the appropriate federal court in New York or appropriate state court sitting in the New York county in which the Municipality is located, to whose jurisdiction the Parties hereby assent, waiving all objections to venue or forum.

13.2 DISPUTE RESOLUTION

Unless otherwise provided for in this ESA, the dispute resolution procedures of this ARTICLE 13.2 shall be the exclusive mechanism to resolve disputes arising under this ESA. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this ESA. Any dispute that arises under or with respect to this ESA that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time is modified by written agreement of the Parties involved in the dispute. In the event that the Parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties may seek judicial relief or enforcement subject to the provisions of this ESA. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this ESA.

ARTICLE 14 -- INDEMNIFICATION

14.1 INDEMNIFICATION BY THE COMPETITIVE SUPPLIER

In addition to any other remedies available to the Municipality at law or equity, and notwithstanding any other provision contained herein, the Competitive Supplier shall indemnify, defend and hold harmless the Municipality and the Program Administrator ("**Indemnified Parties**") and the Indemnified Parties' elected officials, officers, owners, directors, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Competitive Supplier or its Associated Entities of its obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Distribution Utility, the Municipality, the Program Administrator or any of their elected officials, officers, owners, directors, employees, representatives, independent contractors or agents, if any or (ii) any action or omission taken or made by the Competitive Supplier or its Associated Entities in connection with Competitive Supplier's performance of this ESA.

14.2 NOTICE OF INDEMNIFICATION CLAIMS

If the Municipality or Program Administrator seeks indemnification pursuant to this ARTICLE 14, it shall notify Competitive Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim.

14.3 SURVIVAL

Notwithstanding any provision contained herein, the provisions of this ARTICLE 14 shall survive the termination of this ESA for a period of two (2) years with respect to (i) any claims which occurred or arose prior to such termination and (ii) any losses occurring as a result of the termination.

14.4 DUTY TO MITIGATE

Each Party agrees that they have a duty to mitigate damages and covenant that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this ESA.

ARTICLE 15 -- REPRESENTATIONS AND WARRANTIES**15.1 BY THE COMPETITIVE SUPPLIER**

As a material inducement to entering into this ESA, the Competitive Supplier hereby represents and warrants to the Municipality as of the Execution Date of this ESA as follows:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this ESA;
- (b) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
- (c) the execution, delivery and performance of this ESA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- (d) subject to the conditions set forth in ARTICLE 2.4, this ESA constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations to the Municipality in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;
- (e) no Bankruptcy is pending against it or to its knowledge threatened against it;
- (f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to or for the benefit of the Municipality pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- (g) all information furnished by Competitive Supplier in response to the Request for Proposals for competitive electric supply services is true and accurate.

15.2 BY THE MUNICIPALITY

As a material inducement to entering into this ESA, the Municipality hereby represents and warrants to Competitive Supplier as of the Execution Date of this ESA as follows:

- (a) this ESA constitutes the legal, valid and binding contract of the Municipality enforceable in accordance with its terms, subject to applicable law;
- (b) the execution, delivery and performance of this ESA are within the Municipality's powers, have been or will be duly authorized by all necessary action;
- (c) Municipality has all authorizations from local Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- (d) no Bankruptcy is pending or threatened against the Municipality;

15.3 BY THE PROGRAM ADMINISTRATOR

As a material inducement to entering into this ESA, the Program Administrator hereby represents and warrants to Competitive Supplier and Municipality as of the Execution Date of this ESA as follows:

- (a) this ESA constitutes the legal, valid and binding contract of Program Administrator enforceable in accordance with its terms, subject to applicable law
- (b) the execution, delivery and performance of this ESA are within Program Administrator's powers, have been or will be duly authorized by all necessary action;
- (c) Program Administrator has all authorizations from any local or state Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- (d) no Bankruptcy is pending or threatened against Program Administrator.

ARTICLE 16 -- INSURANCE

16.1 In order to help support the indemnifications provided in ARTICLE 14, and its other promises and covenants stated herein, Competitive Supplier shall secure and maintain, at its own expense, before the Effective Date and throughout the term of this ESA, unless otherwise specified, commercial general liability insurance of at least \$1,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers licensed to do business in the State of New York. Each of the required insurance policies shall be with insurers qualified to do business in the State of New York, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition. In the event the Competitive Supplier's insurance carrier is downgraded to a rating of lower than Best's A-, Competitive Supplier shall have ninety (90) days to obtain coverage from a carrier with a rating of at least Best's A-. Proof acceptable to the Municipality that each such insurance coverage is in force and effect, and listing the Municipality as an additional insured on all policies, shall be submitted on or before the Effective Date and thereafter whenever renewed or requested by the Municipality. All insurers must be notified that the insurance policies must provide that a copy of any notice of cancellation or non-renewal will be sent to the Municipality.

16.2 With respect to any of the insurance policies provided by the Competitive Supplier pursuant to these requirements which are "claims made" policies, in the event at any time such policies are canceled or not renewed, the Competitive Supplier shall provide a substitute insurance policy with terms and conditions and in amounts which comply with these requirements and which provides for retroactive coverage to the date of the cancellation or non-renewal of the prior "claims-made" policy. With respect to all "claims made" policies which have been renewed, the Competitive Supplier shall provide coverage retroactive to the Effective Date under this ESA. All said substitute or renewed "claims made" policies shall be maintained in full force and effect for not less than three (3) years after the date of the termination of the ESA.

16.3 Competitive Supplier, to the extent required by law, must provide worker's compensation insurance meeting all applicable state and federal requirements.

ARTICLE 17 -- REGULATORY EVENT/NEW TAXES

17.1 REGULATORY EVENT

If a Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If despite such best efforts, a Regulatory Event affects Competitive Supplier, and both Program Administrator and Municipality agree that Competitive Supplier is incurring excess costs as a result thereof and agrees that Competitive Supplier may recover such costs, such amount shall be allocated to and collected from Participating Consumers on a per kWh basis through applicable monthly invoice(s).

17.2 QUALIFYING REGULATORY EVENT

If a Qualifying Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If a Qualifying Regulatory Event affects Competitive Supplier and Competitive Supplier incurs materially excess or materially reduced costs as a result thereof, such amount shall be allocated to and collected from, or credited to, Participating Consumers on a per kWh basis through applicable monthly invoice(s).

17.3 NEW TAXES

If any New Taxes are imposed for which Competitive Supplier is responsible, the amount of such New Taxes shall be allocated to and collected from Participating Consumers through applicable monthly invoice(s).

ARTICLE 18 -- MISCELLANEOUS

18.1 OPTION FOR ALTERNATIVE SUPPLY OF POWER

The Parties agree that the terms of EXHIBIT C, if included shall provide an option for the provision of an additional Renewable Power Product to the Program.

18.2 NO ASSIGNMENT WITHOUT PERMISSION

Except in the event of the sale of all or substantially all of its retail electricity business to an entity with credit and service ability to deliver on all facets of this ESA reasonably acceptable to Municipality, Competitive Supplier or Program Administrator shall not directly or indirectly assign this ESA or any of its rights, obligations and privileges under this ESA without the prior written approval of the Municipality. Such approval may be denied at the reasonable discretion of the Municipality, including if the proposed assignee does not have the experience and financial ability to fulfill all obligations of the Competitive Supplier or Program Administrator in the ESA. Notwithstanding the above, any assignment of this ESA by the Competitive Supplier, whether as the result of the sale of all or substantially all of the Competitive Supplier's business related to this ESA or otherwise, shall be subject to the following requirements: (i) Competitive Supplier shall provide the Municipality with notice of the proposed assignment at least ninety (90) days prior to such assignment; (ii) Competitive Supplier's assignee shall agree in writing to be bound by the terms and conditions of this ESA; and (iii) Competitive Supplier and such assignee shall, at least ninety (90) days in advance of any assignment, reasonably demonstrate to Municipality that

assignee has the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. The Municipality or Program Administrator may assign this ESA without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same financial ability as the Municipality or Program Administrator and such assignment would not materially impair the rights and interests of Competitive Supplier under this ESA. The rights and obligations created by this ESA shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

18.3 DIRECT MARKETING

Prior to the introduction of any new product or service which Competitive Supplier may wish to make available to Participating Consumers or other Eligible Consumers located within the Municipality, Competitive Supplier agrees to (i) give the Municipality written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Municipality the possible inclusion of such new product or service in this or another aggregation program undertaken by the Municipality.

Competitive Supplier also agrees not to engage, whether directly or through any of its Associated Entities, in any direct marketing to any Participating Consumer that relies upon Competitive Supplier's unique knowledge of, or access to, Participating Consumers gained as a result of this ESA. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Competitive Supplier and the Consumer.

Programs of the Competitive Supplier that do not rely on unique knowledge or access gained through this ESA will not constitute such "direct marketing."

18.4 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this ESA shall be in writing and addressed to the Parties as designated in EXHIBIT B.

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this ESA; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this ESA; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this ESA. Any party may change its address and contact person for the purposes of this ARTICLE 18.3 by giving notice thereof in the manner required herein.

18.5 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name or telephone number of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt notice to the Municipality and the Program Administrator in the manner set forth in ARTICLE 18.4. In the event that the name or telephone number of any such contact person for the Municipality changes, prompt notice shall be given to the Competitive Supplier and the Program Administrator in the manner set forth in ARTICLE 18.4. In the event that the name or telephone number of any such contact person for the Program Administrator changes, prompt notice shall be given to the Competitive Supplier and the Municipality in the manner set forth in ARTICLE 18.4.

18.6 ENTIRE AGREEMENT; AMENDMENTS

This ESA constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This ESA may only be amended or modified by a written instrument signed by all Parties hereto, duly authorized to sign such instrument.

18.7 FORCE MAJEURE

If by reason of Force Majeure any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the Force Majeure, gives the other Party hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If (i) an event of Force Majeure caused by any strikes, lockouts or other industrial disturbances involving Competitive Supplier or its Associated Entities continues for a period of thirty (30) days or longer, or (ii) an event of Force Majeure arising from any other cause continues for a period of one hundred eighty (180) days or longer, any Party may terminate this ESA by sending the other Party a written notice as set forth in ARTICLE 4.2; provided, however, that the same shall not constitute a default under this ESA and shall not give rise to any damages. Additionally, Competitive Supplier shall submit all consumer drops via EDI to the Distribution Utility in accordance with the rules and regulations set forth by the PSC in Case 98-M-0667.

18.8 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this ESA, including without limitation, all of its attorney's fees and expenses.

18.9 NO JOINT VENTURE

Each Party will perform all obligations under this ESA as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Municipality and the Competitive Supplier hereunder are individual and neither collective nor joint in nature.

18.10 NO RULE OF STRICT CONSTRUCTION

The language contained herein shall be deemed to be that approved by all Parties hereto and no rules of strict construction shall be applied against any Party hereto.

18.11 COUNTERPARTS

This ESA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

18.12 DIGITAL SIGNATURES

This ESA may be executed by facsimile or other digital signature (or by using a digital signature service such as DocuSign), and such signature shall have the same force and effect as a manual signature.

18.13 WAIVER

No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this ESA shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this ESA shall only be effective with respect to an obligation to the waiving Party and shall only be effective if made in writing and signed by the Party who is making such waiver.

18.14 ADVERTISING LIMITATIONS

Competitive Supplier and Municipality agree not to use, whether directly or through any of its Associated Entities, the name of the other Party, or make any reference to the other Party in any advertising or other information to be distributed publicly for marketing purposes, unless such other Party expressly agrees to such usage. The Municipality acknowledges that the Competitive Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted

to the Municipality hereunder, and the Municipality agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

18.15 PRESS RELEASES

The Parties agree to joint review and approval prior to issuance of all media press releases regarding this Agreement. Approval of press releases will not be unreasonably withheld. The Parties agree to cooperate in good faith prior to the issuance of any formal press release with respect to this ESA, such cooperation to include agreement as to the form, substance and timing of such formal press release.

18.16 HEADINGS AND CAPTIONS

The headings and captions appearing in this ESA are intended for reference only, and are not to be considered in construing this ESA.

18.17 SURVIVAL OF OBLIGATION

Termination of this ESA for any reason shall not relieve the Parties of any obligation accrued or accruing prior to such termination.

ARTICLE 19 -- REMEDIES

19.1 GENERAL

Subject to the limitations set forth in ARTICLE 19.2 below and ARTICLE 4, the Parties reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party hereto under this ESA.

19.2 LIMITATIONS OF LIABILITY

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER SUCH CLAIMS ARE BY STATUTE, ARE BASED UPON BREACH OF WARRANTY, TORT, CONTRACT OR OPERATION OF LAW.

Notwithstanding the foregoing, each Party acknowledges that the preceding sentence shall not limit the other Party's rights to seek direct damages or, under ARTICLE 14.1, to seek indemnification from Competitive Supplier for consequential, punitive, or incidental damages described in the preceding sentence or other such losses claimed by third- parties.

19.3 DISCLAIMER

EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPETITIVE SUPPLIER MAKES NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, OF THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York, as of the respective dates set forth below.

COMPETITIVE SUPPLIER

By: _____
Name: _____
Title: _____
Email: _____
Address: _____

Dated: _____

MUNICIPALITY

By: _____
Name: _____
Title: _____
Email: _____
Address: _____

Dated: _____

PROGRAM ADMINISTRATOR

By: _____
Name: Michael Gordon
Title: Chief Executive Officer; Joule Assets, Inc.
Email: mgordon@jouleassets.com
Address: 22 Edgemont Road, Katonah, NY 10536

Dated: _____

[SIGNATURE PAGE TO ELECTRICITY SUPPLY AGREEMENT]

EXHIBIT A - PART 1 **PRICES AND TERMS**

JOULE ASSETS COMMUNITY CHOICE AGGREGATION PROGRAM CCA RENEWABLE ELECTRICITY AS DEFAULT PRODUCT

This shall be the default product offered to Participating Consumers.

Firm Full-Requirements Price by Rate Classification for all Participating Consumers located in the Distribution Utility (to wit, [name of the utility]) territory commencing service on the first consumer meter-read date after [date] (“**First Meter Read Date**”).

Table 1:

Rate Class	Fixed Price per kWh	
Residential	[] cents	
Small Commercial	[] cents	

Terms for System Supply Service

Term: The Price and Terms stated on this EXHIBIT A – Part 1 will commence on the First Meter Read Date and continue until the first consumer meter read date after [date] (“**Final Meter Read Date**”), unless this ESA is sooner terminated in accordance with ARTICLE 4.2 of this ESA.

The period of delivery of Firm Full-Requirements Power Supply shall be consistent with the provisions of ARTICLE 4 and EXHIBIT A – Part 1 of this ESA.

Start-Up Service Date: Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Consumer’s First Meter Read Date.

Renewable Energy in System Supply: 100% of electricity supply shall be CCA Renewable Electricity Product as defined in the Agreement.

Renewable Energy Certificates (“RECs”) Purchase: Competitive Supplier shall identify the technology and location of the renewable generators that are the sources of the RECs for the default product. All such RECs shall be created and recorded in the New York Generation Attribute Tracking System (“NYGATS”) or be certified by a third party satisfactory to the Municipality.

NY Class II Voluntary RECs Purchase. This Agreement includes a purchase of RECs, sourced from NY Class II Voluntary Renewable Resources in an amount equal to **100%** of Participating Consumers electricity usage as of the Effective Date of this Agreement. For clarification purposes, the 100% RECs purchase consists of any then-current New York renewable energy standard requirements applicable to alternative retail electric suppliers in New York plus additional NY Class II Voluntary RECs in an amount equal to 100% of the customer’s usage. Competitive Supplier shall notify Municipality in writing regarding the source of your NY Class II Renewable Resource(s). Each REC represents the environmental attributes associated with one MWh of electricity generated by a NY Class II Renewable Resource, but does not include any tax credits, depreciation allowances or third party subsidies of any kind. For purposes of this Agreement:

“NY Class II Renewable Resource” means any electric power generator satisfying the Climate Leadership and Community Protection Act and meeting the eligibility criteria of a New York renewable energy generating source as further defined in NY DPU Case 15-M-0127, et al. and the regulations promulgated thereunder, as applicable, as of the Effective Date of this Agreement. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program. RECs will be retired for all participants collectively at the Program level.

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established utility data drop protocols. Participating Consumers are to provide five (5) business days’ notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Consumers to opt-out or terminate service.

Credit policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to default utility service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

EXHIBIT A - PART 2
PRICES AND TERMS (continued)

JOULE ASSETS COMMUNITY CHOICE AGGREGATION PROGRAM CCA
 CONVENTIONAL ELECTRICITY ALTERNATIVE STANDARD PRODUCT

This product shall be offered to Participating Consumers who choose to participate in the Program and seek an alternative product to the default product described in EXHIBIT A – Part 1.

Firm Full-Requirements Price for Power Supply by Rate Classification for all Participating Consumers located in Distribution Utility (to wit, [name of the utility]) service territory commencing service on the First Meter Read Date.

Table 3:

Rate Class	Fixed Price per kWh	
Residential	[] cents	
Small Commercial	[] cents	

Terms for System Supply Service

Term: The Price and Terms stated on this EXHIBIT A Part 2 will commence on the First Meter Read Date and continue until the Final Meter Read Date, unless this ESA is sooner terminated in accordance with ARTICLE 4.2 of this ESA.

The period of delivery of Firm Full-Requirements Power Supply shall be consistent with the provisions of ARTICLE 4 and EXHIBIT A of this ESA.

Start-Up Service Date: Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Consumer's First Meter Read Date.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy and Renewable Energy Certificates in the Firm Full-Requirements Power Supply mix in an amount equal to the CCA Conventional Electricity Product as defined in the Agreement.

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Consumers are to provide five (5) business days' notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Consumers to opt-out or terminate service.

Credit policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any

security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to default utility service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

EXHIBIT B -
CONTACT, NOTICE AND PAYMENT INFORMATION

<u>PROGRAM ADMINISTRATOR GENERAL</u>	<u>MUNICIPALITY GENERAL INFORMATION</u>	<u>SUPPLIER GENERAL INFORMATION</u>
Joule Assets Inc Contact Name: Glenn	[Name of Supplier] Contact Name: []	[Name of Supplier] Contact Name: []
Address: 22 Edgemont Road Katonah, New York 10536 914 - 977 - 3444	Address: [] Telephone Number: []	Address: [] Telephone Number: []
E-mail Address: gweinberg@jouleassets.com	Email Address: []	Email Address: []
<u>PROGRAM ADMINISTRATOR ADDRESS FOR NOTICES PURSUANT</u>	<u>MUNICIPALITY ADDRESS FOR NOTICES PURSUANT TO ARTICLE 18.4</u>	<u>SUPPLIER ADDRESS FOR NOTICES PURSUANT TO ARTICLE 18.4</u>
ATTN: Glenn Weinberg Joule Assets Inc	ATTN: []	ATTN: []
Address: 22 Edgemont Road	Address: []	Address: []
City, State Zip: Katonah, NY	[]	[]
With a copy to:	With a copy to:	With a copy to:
Name: Stephen Filler, General Counsel Joule Assets Inc. 22 Edgemont Road Katonah, New York	Name: Address:	Name: Address:

EXHIBIT C -
OPTION FOR ALTERNATIVE SUPPLY OF POWER

Competitive Supplier shall provide power to Participating Consumers, including the option for consumers to purchase REC's, throughout the term of this ESA and from sources of its own discretion subject to the terms of this Agreement, the RFP and the Competitive Supplier's response. However, Program Administrator desires to support the construction of, or cause the Competitive Supplier to contract directly with, renewable sources of energy (each a "**Renewable Power Source**") prior to award or after the Effective Date of the Program for the benefit of the Participating Consumers and of the renewable power market.

Upon agreement to a Power Purchase Agreement ("**PPA**"), acceptable to Program Administrator, Municipality, and Competitive Supplier with the applicable Renewable Power Source, the Competitive Supplier may purchase output from the Renewable Power Source to Competitive Supplier (or Associated Entity) either through purchase by Competitive Supplier from a third party, or by way of assignment by Program Administrator) of that PPA in accordance with this exhibit.

Competitive Supplier may either work from a roster of Renewable Power Sources pre-approved by Program Administrator (with the cooperation of Municipality) who retain a PPA consistent with Program Administrator's needs (for the benefit of Participating Consumers), or Competitive Supplier may obtain written approval from Program Administrator for an alternative source and PPA.

In the event Program Administrator identifies output from Renewable Power Source(s) that Program Administrator intends to assign or direct to the Competitive Supplier for use in the program for the benefit of Participating Consumers, Program Administrator will describe whether each product is unit-contingent or smoothed, and Program Administrator will describe the projected (if unit contingent) or committed quantity (if smoothed) for RECs, Capacity and/or kWh, including time blocks for the product, if appropriate.

The Program Administrator will then fill out the Table below, adding to it as necessary:

Product	Unit-Contingent or committed	Time Block	Zone	Price (per Unit)
kWh Output				
REC Output				

Capacity Standby				
kWh Output				
REC Output				
Capacity Standby				

Competitive Supplier will then solicit offers from the free market for like quantities of power, REC or capacity.

In such case, the Parties agree to negotiate in a commercially reasonable manner a rate adjustment to Participating Consumers to (a) compensate Competitive Supplier (or an Associated Entity) for any losses should Competitive Supplier (or an Associated Entity) need to then sell off any of the original power purchased to supply the Program at a lower price than it purchased it for, or (b) compensate Participating Consumers for any gains should Competitive Supplier (or an Associated Entity) then be able to sell off any of the original power purchased to supply the Program at a higher price than it purchased it for. Any such rate adjustment shall only amend or modify the ESA by a written instrument signed by all Parties hereto.

To benefit the Municipality or Participating Consumers, Program Administrator will be authorized to invite bidders to purchase the power being replaced (separately by kWh, capacity or REC or in any bundle it chooses) if, in its sole discretion, it believes it can sell current positions that match the unit-contingent production expectation at a higher price than Competitive Supplier is quoting as a sales price.