



18

CITY OF DANBURY

OFFICE OF THE MAYOR
DANBURY, CONNECTICUT 06810

MARK D. BOUGHTON
MAYOR

(203) 797-4511
FAX (203) 796-1666

September 26, 2006

Honorable Members of the Common Council
City of Danbury, Connecticut

Dear Common Council Members:

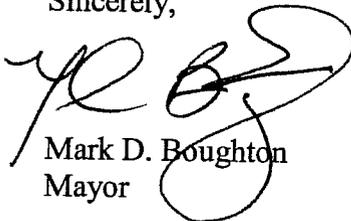
The City of Danbury has an exciting timely opportunity to participate in a consortium of communities in Connecticut to develop a Municipal Energy Savings Program. This proposal comes to us with the advice and cooperation of the United States Conference of Mayors.

The City of Danbury can form an aggregated energy buying group with institutions and businesses in our community. This process increases our buying power to gain more leverage in pricing with energy suppliers. Bulk energy pricing typically requires power-blocks far too large for most municipalities and businesses to buy alone. The Municipal Energy Savings Program will allow us economies of scale to gain better energy pricing following upcoming energy deregulation in Connecticut

Our ability to implement energy aggregating is a time-sensitive matter in preparation for the upcoming changes in the state energy market. I am writing to ask for your authorization to proceed with this important energy cost-savings opportunity.

Thank you for your attention to this matter.

Sincerely,



Mark D. Boughton
Mayor

SERVICES AGREEMENT

REGARDING A MUNICIPAL ENERGY SAVINGS PROGRAM

This SERVICES AGREEMENT (this "Agreement") is entered into as of this ____ day of _____, 2006 between the City of _____, Connecticut, (the "City") and Pareto Energy Ltd. ("Pareto Energy"), a Delaware corporation having offices at 1101 30th Street, NW, Suite 500, Washington, DC 20006 (each a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, the City wishes to improve the affordability, reliability and environmental sustainability of energy use within its community;

WHEREAS, Pareto Energy Ltd. is a platinum partner of the United States Conference of Mayors and has developed a Municipal Energy Savings Program ("MESP") with the advice and cooperation of the United States Conference of Mayors;

WHEREAS, the Pareto Energy MESP will enable the City to form an aggregated energy buying group with institutions and businesses within their community and also with other Connecticut cities and businesses and thereby: 1) increase their buying power to gain more leverage in pricing with energy suppliers and access bulk pricing, which typically requires power-blocks far too large for most individual cities or businesses to buy alone; 2) attract more suppliers to the bidding, creating more effective competitive bidding and pricing; 3) improve load factor, the ratio of electricity consumption to peak demand for each billing period, so the purchase price of electricity decreases for all buying group members; and 4) avoid the costs of supplier selection and energy contract management, which might otherwise require each member entity to hire an independent energy manager or consultant;

WHEREAS, the Pareto Energy MESP also can mobilize its experts in the financing of energy improvement projects including: 1) 100 percent financing for investments in energy savings measures and equipment that make the optimal use of State, Federal and Private Environmental subsidies and grants; and 2) the planning and private financing of new energy infrastructure such as modernized electrical distribution systems using clean and renewable on-site generation and microgrids; and

WHEREAS, the City does not pay to join the Pareto Energy MESP and in fact the City can generate revenue from referral of local business customers, shared savings and rental income from the MESP in addition to developing affordable, reliable and environmentally sustainable power for the economic development and well-being of its community.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein, the Parties hereby agree as following.

- 1. Definitions. For the purposes of this agreement, the Parties agree that:
 - (a) Energy Supplier shall mean electricity and/or natural gas supplier licensed by the DPUC to provide electricity and/or natural gas to Connecticut consumers, selected through the MESP, and approved by the City.

MESP Services Agreement

- (b) Demand Response Provider shall mean company licensed by the DPUC and New England Regional Transmission Operator to provide Demand Response Services to Connecticut consumers.
- (c) Energy Supply shall mean electricity and/or natural gas purchased by the City from an Energy Supplier.
- (d) Demand Response shall mean participation in voluntary curtailment of service at times when the electrical grid system is overloaded in exchange for payments by the New England Regional Transmission Operator and/or Local Electric Utility.
- (e) MESP Service Fees shall mean fees paid by an Energy Supplier (electric and/or natural gas) or Demand Response Provider to Pareto Energy for the aggregation of electric accounts, natural gas accounts and/or Demand Response load.

2. Engagement. Subject to the terms and conditions of this Agreement, the City hereby engages Pareto Energy to provide the services ("Services") checked and initialed in this section as set forth on Schedule 1 related to Energy Supply and/or Demand Response to the accounts and/or facilities listed in Addendum A.

- Energy Supply (Electrical) Initial: _____
- Energy Supply (Natural Gas) Initial: _____
- Demand Response Initial: _____

3. Compensation. There will be no fees or other charges by Pareto Energy to the City for the Services or otherwise in connection with this Agreement unless otherwise agreed to in writing. Pareto Energy agrees it will look solely for compensation from the MESP Service Fees from the Energy Supplier or Demand Response Provider that City contracts with for Energy Supply and Demand Response as a result of the MESP to the accounts listed in Addendum A, and City shall have no obligation to Pareto Energy with respect thereto.

4. Term and Termination. This Agreement shall commence as of the date of this Agreement first set forth above, and shall continue until the City or Pareto Energy cancels this agreement with thirty (30) days advanced written notice. Notwithstanding the foregoing, if, within thirty days of termination, the City contracts for supply at a price equal to or greater than the lowest bid price received by Pareto Energy less the MESP Service Fee, the City will direct the contracted supplier to compensate Pareto Energy its Supplier Fee. This paragraph shall survive termination of this agreement.

5. Information; Confidentiality.

- (a) The City agrees that it will need to provide a letter of Authorization contained in Appendix A to allow Pareto Energy to receive energy usage information from Local Electric and/or Natural Gas Utility. Each Party agrees to make available to the other Parties such information as may be reasonably required to carry out the terms of this Agreement.

MESP Services Agreement

- (b) Each Party agrees, for itself and its affiliates and their directors, officers, employees, representatives and agencies and instrumentalities, that it shall keep confidential information provided by the disclosing Party (the "Disclosing Party") which is clearly marked proprietary or confidential at the time of its distribution (or is identified orally as confidential to the receiving Party and such disclosure is reduced to writing and delivered to the receiving Party prior to the release of the information to a third party), and shall not disclose the same to any third party without the express written consent of the Party to whom the information pertains or is relevant. Such confidential and/or proprietary information shall be used solely for the purpose of satisfying the obligations set forth in the Agreement.
 - (c) Notwithstanding the foregoing, no Party shall be prevented from disclosing information
 - (i) upon the order of any court or administrative agency or as otherwise required by law;
 - (ii) which is required by the public reporting or disclosing requirements imposed by federal or state securities laws applicable to the receiving Party;
 - (iii) that is in the public domain by reason of prior publication not attributable to any act or omission of the receiving Party or any of its officers, agents, representatives or employees;
 - (iv) that has been obtained from any person (other than the Disclosing Party or any affiliate of such Party) who was not similarly bound or (e) with the consent of the Disclosing Party. If any Party is ordered or required to disclose confidential information pursuant to clause (i) of the preceding sentence, it shall promptly notify the Disclosing Party or such order or requirement and the terms thereof and shall cooperate to the maximum extent practicable to minimize the disclosure of such information and shall use its reasonable efforts to obtain proprietary or confidential treatment of such information by such court or administrative agency and shall, to the extent such remedies are available, seek protective orders limiting the dissemination and use of the information. This Agreement does not alter the rights of any Party to challenge any law requiring such disclosure.
 - (d) Each Party shall restrict access to confidential information to those of its agents, representatives or employees that need such access for the fulfillment of such Party's purposes as set forth in this Agreement. Each Party shall advise each such agent, representative or employee that such person is prohibited from violating the provision of this Section. The confidentiality obligations of the Parties under this Agreement shall remain in full force and effect for a period of 3 years after the termination of this Agreement.
6. Indemnification. The City agrees to indemnify and hold harmless Pareto Energy and its directors, officers, employees and representatives from and against any and all losses, claims, damages, liabilities and expenses of defense of any claim or action, directly or indirectly, relating to or arising out of or in connection with any breach of any of its obligations under this Agreement, or resulting from any claim by any third party against Pareto Energy in connection with the performance of its services hereunder; provided, however, that such indemnity shall not apply to any portion of any such losses, claims, damages, liabilities and expenses to the extent, and only to such extent, it is found in a final award by an arbitral tribunal appointed pursuant to the terms of Section 9 below or a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from the gross negligence, willful misconduct or fraud of Pareto Energy or its directors, officers, employees or representatives.

MESP Services Agreement

- 7. Reasonable Efforts. Each Party shall use its reasonable efforts and shall proceed in good faith and in a timely manner with all necessary third parties in cooperation with the other Parties to achieve the purposes of this Agreement. Each Party shall execute and deliver to the other Party such further documents, instruments and assurances as may be reasonably requested by the other party to fulfill the intent of the Parties hereto.
- 8. Independent Contractor. The relationship between the City and Pareto Energy shall not be that of partners, agents, or joint ventures of one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including U.S. federal income tax purposes. All Services performed by Pareto Energy shall be as an independent contractor and not as an agent or employee of City. Pareto Energy shall have no authority to bind the City to any commitment, contractual or otherwise.
- 9. Resolution of Disputes. The Parties shall attempt to amicably resolve disputes through escalating levels of management. All unresolved disputes may be settled by arbitration in Connecticut if agreed to by all Parties. Otherwise, litigation may be used. Notice of any dispute must be given in writing within thirty (30) days of the claim, dispute or matter arising.
- 10. Governing Law/Venue of Action. This Agreement shall be construed and enforced in accordance with the laws of the State of Connecticut. Any action at law or other judicial proceed for the enforcement of any provision shall be instituted in the State of Connecticut.
- 11. Termination for Default. Upon failure to perform this Agreement under its terms, the City will provide written notice to Pareto Energy of the breach, and Pareto Energy will have a reasonable time (as stated in the City's written notice) in which to cure the breach. Failure to cure within the state time will subject Pareto Energy to a default termination, with no liability to the City other than it obligation to pay for services performed up until the time of termination or for any MESP Service Fees to which Pareto Energy shall be entitled, which entitlement shall survive any termination of this agreement whatsoever the cause.
- 12. Notice. All notices and communications concerning or required under this Agreement shall be in writing and shall be either (a) hand delivered, (b) sent by registered or certified [U.S. Mail], postage prepaid (c) sent by an internationally recognized commercial overnight delivery service such as FedEx or DHL or (d) transmitted by facsimile. Notices shall be deemed served or delivered to the addressee or its office when hand delivered, on the date of delivery, five (5) Business Days after deposit in the mail when sent by [U.S. mail], the day after being sent when sent by overnight delivery service and upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next Business Day if sent at any other time). All notices hereunder shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the Party to receive such notice:

If to the City:

Fax:

Attention:

MESP Services Agreement

With a copy to:

Fax:
Attention:

If to Pareto Energy:
Pareto Energy LTD
1101 30th Street, NW
Suite 500
Washington, DC 20007
Fax: (202) 625-4363
Attention: Guy G. Warner, CEO

With a copy to:
Thelen Reid & Priest LLP
875 Third Avenue
New York, NY 10022
Fax: 212-603-2001
Attention: Frederick R. Fucci, Esq.

- 13. Disclaimer of Consequential Damages. Notwithstanding anything in this Agreement to the contrary, no Party or such Party's directors, officers or representatives shall be liable to the other(s) for any indirect, incidental, special, punitive, exemplary, or consequential damage, cost, expense or other liability, whether arising out of contract, tort (including negligence), strict liability, or any other cause of or form of action whatsoever.
- 14. Entire Agreement; Modification. This Agreement sets forth the entire understanding of the Parties and may only be modified through a writing executed by all Parties.
- 15. Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding.
- 16. Force Majeure. Pareto Energy is excused from performance by acts of God, fire, war, loss or shortage or transportation facilities, lockout or commandeering of raw materials, products, plants or facilities by the Government or any other act or occurrence beyond the reasonable control of Pareto Energy and all time periods in this Agreement shall be extended for the entire time that Pareto Energy is unable to perform its obligations hereunder due to such events.
- 17. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument

MESP Services Agreement

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be signed by its duly authorized representatives as of the date, month and year first written above.

CITY OF _____, CONNECTICUT

PARETO ENERGY LTD

By: _____
Name: _____
Title: _____

By: _____
Name: Guy Warner
Title: President & CEO

SCHEDULE 1 - MESP SERVICES

Energy Supply:

If selected by the Customer to perform this Service, Pareto Energy will assist Customer in procuring Energy Supply from an Energy Provider at Customer's facilities listed in Addendum 1. During the term of this agreement Pareto Energy shall be Customer's exclusive provider for the Service listed below for the accounts listed in Addendum A and Customer will not solicit bids for Energy Supply through any other channel. Pareto Energy agrees it will look solely for compensation from the Energy Supplier that the Customer contracts with for its Energy Supply as a result of Pareto Energy Services. In performing its Services, Pareto Energy will:

1. Prepare for Customer analysis and market research to assist customer in making buying decisions
2. Gather utility information from Local Electric Utility
3. Prepare a short list and recommendations of Energy Suppliers that will the Customer should consider the purchase of Energy Supply. The Customer will approve what Energy Suppliers that will participate in the procurement of Energy Supply.
4. Prepare for the Customer approval of the terms of the Request(s) for Proposals to be provided to bidders.
5. Soliciting bids for Energy Supply from the approved Energy Suppliers
6. Validating and confirming bids for energy supply
7. Assist Customer in evaluation of bids necessary to make buying decision
8. Assist Customer in executing an agreement with Energy Suppliers. The Customer understands that only the Customer can enters into any agreement for Energy Supply from the selected Energy Supplier.

Demand Response

If selected by the City to perform this Service, Pareto Energy will assist Customer in enrolling and participating in Demand Response with a Demand Response Provider at Customer's facilities listed in Addendum 1. During the term of this agreement Pareto Energy shall be the cities exclusive provider for these Service listed below for the accounts listed in Addendum A and Customer shall not enroll the accounts listed in Addendum A with any other Demand Response Provider. Pareto Energy agrees it will look solely for compensation from the Demand Response Provider that the Customer contracts with as a result of Pareto Energy Services. In performing its Services, Pareto Energy will:

1. Work with Customer to determine which locations may participate in Demand Response and potential value
2. Gather utility information from Local Electric Utility that will be required for evaluation and enrollment.
3. Prepare a short list of Demand Response Providers, evaluate potential offers and make recommendation to Customer for selection of provider.
4. Work with Customer to review Demand Response Provider contract and assist Customer in executing an agreement with Demand Response Provider. The Customer understands that only the Customer can enters into any agreement for Demand Response from the selected Demand Response Provider
5. Assist Customer and Demand Response provider in enrolling location and any operating changes that may be required to maximize participation.

MESP Services Agreement

Demand Response:

Name of Customer of Record (as it appears on your bill): _____

<u>Account Number</u>	<u>Utility</u>	<u>Service Address</u>
None		



State of Connecticut
Department of Public Utility Control

Customer Historical Usage Information Release Form *

The electric generation portion of your electric service will start opening to competition in Connecticut for The Connecticut Light and Power Company (CL&P) and The United Illuminating Company (UI) customers beginning on January 1, 2000. This means that new companies will be licensed to compete to supply your electric energy and you will be able to choose your electric supplier.

State law, Section 16-245o of the Connecticut General Statutes, provides that customer information that can be used for marketing purposes shall not be released by a distribution company to any electric supplier unless the customer signs a release. The law also requires the Department of Public Utility Control (DPUC) to make the Release Form available to the general public.

An electric supplier must first obtain a copy of your authorization, which it will keep on file, before it can request the release of your historical usage information from your distribution company, CL&P or UI.

Customers who want to have their historical usage information released must complete the Release Form below. The Release Form must be returned to the electric supplier who can then request this information from your distribution company. (A Spanish version of this form is also available.)

Customer Historical Usage Information Release Form

Name of Electric Supplier: _____

Customer to return this form to Supplier at address listed or as indicated below:

ALL INFORMATION TO BE COMPLETED BY CUSTOMER (Please print all information)

Name of Customer of Record (as it appears on your bill): _____

Account number: _____ (See Attachment for list of Accounts)

I hereby authorize my distribution company, CL&P or UI, to release my historical usage information to the licensed supplier named above when requested.

Customer Signature

Date

***This form may be copied, e-mailed or faxed or downloaded for use from the DPUC's website.**

**ANY QUESTIONS? CALL THE DPUC
1-888-922-DPUC (3782)**

To learn more about electric competition or to obtain a copy of this form please go to the Department's Website at: www.dpuc-electric-choice.com



RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

_____ A. D., 200_

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the Metro Energy Savings Program ("MESP"), an alliance of Connecticut municipalities, institutions, businesses and sanctioned by the United States Conference of Mayors, proposes to provide aggregate energy purchasing through Pareto Energy Limited; and

WHEREAS, the MESP would permit the City of Danbury to obtain cost savings in the procurement, consumption and generation of energy resources through navigating the deregulated energy landscape in the State of Connecticut; and

WHEREAS, there is no cost to the City to enter into the proposed collaborative effort pursuant to the Agreement proposed; and

WHEREAS, there are substantial benefits to the City of Danbury pursuant to this cooperative effort;

NOW, THEREFORE, BE IT RESOLVED THAT, Mayor Mark D. Boughton be and hereby is authorized to enter into a cooperative Agreement with Pareto Energy Limited, to execute the **Services Agreement Regarding a Municipal Energy Savings Program** and to execute such other documents as may be required in order to effectuate the purposes hereof.