



ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.:

Utility type:

ELC GAS WATER
 PLC HEAT

Contact Person:

Phone #:
E-mail:
E-mail Disposition Notice to:

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas WATER = Water
PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #:

Tier Designation:

Subject of AL:

Keywords (choose from CPUC listing):

AL Type: Monthly Quarterly Annual One-Time Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL:

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date:

No. of tariff sheets:

Estimated system annual revenue effect (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed¹:

Pending advice letters that revise the same tariff sheets:

¹Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

ENERGY Advice Letter Keywords

Affiliate	Direct Access	Preliminary Statement
Agreements	Disconnect Service	Procurement
Agriculture	ECAC / Energy Cost Adjustment	Qualifying Facility
Avoided Cost	EOR / Enhanced Oil Recovery	Rebates
Balancing Account	Energy Charge	Refunds
Baseline	Energy Efficiency	Reliability
Bilingual	Establish Service	Re-MAT/Bio-MAT
Billings	Expand Service Area	Revenue Allocation
Bioenergy	Forms	Rule 21
Brokerage Fees	Franchise Fee / User Tax	Rules
CARE	G.O. 131-D	Section 851
CPUC Reimbursement Fee	GRC / General Rate Case	Self Generation
Capacity	Hazardous Waste	Service Area Map
Cogeneration	Increase Rates	Service Outage
Compliance	Interruptible Service	Solar
Conditions of Service	Interutility Transportation	Standby Service
Connection	LIEE / Low-Income Energy Efficiency	Storage
Conservation	LIRA / Low-Income Ratepayer Assistance	Street Lights
Consolidate Tariffs	Late Payment Charge	Surcharges
Contracts	Line Extensions	Tariffs
Core	Memorandum Account	Taxes
Credit	Metered Energy Efficiency	Text Changes
Curtable Service	Metering	Transformer
Customer Charge	Mobile Home Parks	Transition Cost
Customer Owned Generation	Name Change	Transmission Lines
Decrease Rates	Non-Core	Transportation Electrification
Demand Charge	Non-firm Service Contracts	Transportation Rates
Demand Side Fund	Nuclear	Undergrounding
Demand Side Management	Oil Pipelines	Voltage Discount
Demand Side Response	PBR / Performance Based Ratemaking	Wind Power
Deposits	Portfolio	Withdrawal of Service
Depreciation	Power Lines	

March 17, 2022

Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

SENT VIA CPUC SFTP

**RE: CleanPowerSF Advice Letter 23-E
CleanPowerSF Demonstration of Sufficient Collective Resource
Adequacy Procurement Across the Six Disaggregated PG&E
Local Capacity Areas for May 2022 Month Ahead or Alternatively,
Approval of CleanPowerSF's Request for Waiver of Penalties for
Certain Local Resource Adequacy Deficiencies in its May 2022
Month Ahead Filing (PUBLIC VERSION)**

Purpose

CleanPowerSF submits this advice letter seeking California Public Utilities Commission ("CPUC") to deem its May Month Ahead Filing compliant or in the alternative, CleanPowerSF seeks approval of its request for a waiver of penalties for Local Resource Adequacy capacity deficiencies in its May 2022 Resource Adequacy ("RA") Month Ahead filing, as identified in Confidential Appendix A.

Legal Standard

In D.06-06-064 as amended by D.07-06-029, D.19-02-022 and most recently by D.20-06-031 the CPUC established a waiver of CPUC-imposed penalties for Local RA deficiencies of its jurisdictional LSEs. Section 25 of the "2022 Filing Guide for System, Local, and Flexible Resource Adequacy (RA) Compliance Filings," issued October 18, 2021, ("RA Guide") reviews the process an LSE requesting a waiver must follow. It requires:

- (1) a demonstration that the LSE reasonably and in good faith

CleanPowerSF is a program of the San Francisco Public Utilities Commission (SFPUC), an enterprise department of the City and County of San Francisco.

CleanPowerSF is committed to protecting customer privacy. Learn more at cleanpowersf.org/privacy.

OUR MISSION: To provide our customers with high-quality, efficient and reliable water, power and sewer services in a manner that values environmental and community interests and sustains the resources entrusted to our care.

London N. Breed
Mayor

Anson Moran
President

Newsha Ajami
Vice President

Sophie Maxwell
Commissioner

Tim Paulson
Commissioner

Dennis J. Herrera
General Manager



solicited bids for its RAR capacity needs along with accompanying information about the terms and conditions of the Request for Offer or other form of solicitation, and

(2) a demonstration that despite having actively pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation, it either

- a. Received no bids, or
- b. Received no bids for an unbundled RA capacity contract of under \$51 per kW-year or for a bundled capacity and energy product of under \$73 per kW-year, or
- c. Received bids below these thresholds but such bids included what the LSE believes are unreasonable terms and/or conditions, in which case the waiver request must demonstrate why such terms and/or conditions are unreasonable.¹

The RA Guide creates an alternative compliance option in the six disaggregated PG&E Other Local Capacity Areas ("LCA") if

- (a) The LSE makes the required demonstration as part of the current local waiver process through a Tier 2 Advice Letter for its disaggregated PG&E Other Local Capacity Requirements; and
- (b) The LSE, in its Year Ahead compliance filing, demonstrates procurement of local RA capacity within the PG&E Other LCAs such that the LSE's collective procurement in the six disaggregated PG&E Other LCAs meets the LSE's collective requirement for the disaggregated PG&E Other LCAs.²

If the LSE demonstrates that they made reasonable efforts to procure capacity in the disaggregated PG&E Other areas and procured sufficient resources to meet the aggregated PG&E Other area requirement, the LSE will be deemed compliant, subject to verification that the LSE indeed made the required demonstration.³

Compliance Efforts

1. Advice Letter 18-E

¹ See RA Guide at 49-50 (quoting)

² RA Guide at 50 (quoting)

³ *Id.*

CleanPowerSF incorporates by reference Confidential Advice Letter 18-E which describes efforts taken in advance of the 2022 Year Ahead RA Compliance Filing on November 1, 2021.⁴

2. Procurement Efforts Since Year Ahead Filing

CleanPowerSF has reasonably and in good faith solicited bids for its Local RA Requirement (“RAR”) by being an active participant in the RA market. Since submitting its November 1, 2021 Year Ahead filing, CleanPowerSF has issued three Local RA Request for Offers (“RFOs”), dated November 9, 2021 (bids due November 15, 2021), December 10, 2021 (bids due December 23, 2021), and February 1, 2022 (bids due February 11, 2021).⁵ These RFO notices were sent to 500 unique entities.⁶ Confidential Appendix E shows the bid information and disposition of those bids CleanPowerSF received from these three RFOs. CleanPowerSF also participated in two investor owned utility (“IOU”) RFOs.⁷ Confidential Appendix F shows CleanPowerSF’s bid information into the IOU RFOs.

CleanPowerSF has pursued all “commercially reasonable” efforts to satisfy its Local RAR and has either (1) received no bids for the total amount of CleanPowerSF’s Local RAR, or (2) received no bids for an unbundled RA capacity contract of under \$51 per kW-year or for a bundled capacity and energy product of under \$73 per kW-year to cure CleanPowerSF’s Local RAR deficiency for May 2022.⁸

3. Continued Participation in the Market

CleanPowerSF made all reasonable and good faith efforts to meet its Local RAR in advance of the May 2022 Month Ahead filing requirement. CleanPowerSF cured deficiencies for January to April but was unable to cure its Local RA deficiency for May.⁹ Notwithstanding this waiver request, CleanPowerSF will continue to seek Local RA capacity to cure the deficiency identified in Confidential Appendix A to Advice Letter 23-E for future Month Ahead filings.

⁴ Advice Letter 18-E is subject to the Declaration of Michael A. Hyams in Support of Confidential Treatment of Data and Information Contained in CleanPowerSF’s Advice Letter 18-E submitted Nov. 1, 2021.

⁵ See Confidential Declaration of Erin B. Mulberg in Support of CleanPowerSF’s Advice Letter 23-E (“Confidential Mulberg Decl.”) ¶ 10; see also Appendix B Notice of RA solicitations.

⁶ See Appendix C for list of unique entities to which RA RFO was sent.

⁷ See Appendix D listing IOU solicitation in which CleanPowerSF participated.

⁸ See Generally Confidential Mulberg Decl.

⁹ See Confidential Mulberg Decl. ¶ 13.

4. *CleanPowerSF Meets the Deemed Compliant Standard.*

As discussed above, CleanPowerSF made reasonable efforts to procure resources in each PG&E Other LCA and to meet the PG&E Other Local Capacity Requirement. CleanPowerSF's Year Ahead compliance filing showed that CleanPowerSF procured resources within the PG&E Other LCAs such that the collective procurement in the six disaggregated PG&E Other LCAs met the CleanPowerSF's collective requirement for the disaggregated PG&E Other LCAs.¹⁰

Confidential Documents

Appendices A, E, F, and G and the Confidential Mulberg Decl. are confidential pursuant to the "Declaration of Michael A. Hyams in support of Confidential Treatment of Data and Information Contained in CleanPowerSF's Advice Letter 23-E" which is submitted concurrently.

Request

For the above reasons and accompanying Appendices CleanPowerSF requests that the Energy Division approves this request for waiver of penalties, through a decision that:

- Deems CleanPowerSF May filing compliant; or
- Alternatively, approves CleanPowerSF's requested waiver of penalties for the deficiency amount of Local RA capacity by area for May 2022 as referenced in Confidential Appendix A.

Tier Designation

Tier 2, as required by Ordering Paragraph No. 8 of D.19-06-026.

Effective Date

No later than April 18, 2022 – 32 days after filing.

Protests

¹⁰ See Confidential Appendix G, which for convenience contains Confidential Attachment A to CleanPowerSF Confidential Advice Letter 18-E (demonstrating sufficient collective procurement in the disaggregated PG&E Other LCAs.)

Anyone wishing to protest this submittal may do so by letter sent via U.S. mail, facsimile or email, no later than April 6, 2022, which is twenty days after the filing date. Protests must be submitted to:

CPUC Energy Division
Energy Division Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

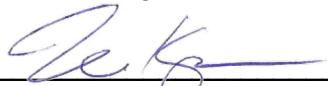
The protest shall also be sent to CleanPowerSF via email on the same date it is mailed or delivered to the Commission:

Alyssa Krag-Arnold
Regulatory Specialist, San Francisco Public Utilities Commission
Email: akragarnold@sfgwater.org

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall set forth the grounds upon which it is based and must be received by the deadline shown above.¹¹

Notice

In accordance with General Rule 4 of General Order 96-B, a copy of this advice letter is being served to the service list for R.19-11-009.



Michael A. Hyams
Director, CleanPowerSF
San Francisco Public Utilities Commission
525 Golden Gate Ave, 7th Floor
San Francisco, CA 94102
mhyams@sfgwater.org
(415) 554-1590

cc: Service List R. 19-11-009

¹¹ See General Order 96-B, Section 3.11

CONFIDENTIAL

APPENDIX A

CleanPowerSF Local Capacity Area Resource
Adequacy Request for Waiver of Penalty for
May 2022

APPENDIX B

CleanPowerSF Local RA Solicitation Notices

CleanPowerSF Solicitations of Unbundled RA

CleanPowerSF has taken all commercially reasonable steps to procure Local Resource Adequacy through issuing three (3) solicitations for unbundled Resource Adequacy capacity.

1. Request for Offers (RFO) of System, Bay Area, Sierra, Fresno, Kern, and Flex RA for 2022-2025
 - a. RFO issuance date: November 9, 2021
 - b. Bid due date: November 15, 2021
 - c. Shortlist notification date: November 15, 2021
 - d. Number of parties RFO was distributed to: ~500 emails
 - e. Solicitation materials:

2. Request for Offers (RFO) of System, Bay Area, Sierra, Fresno, Kern, and Flex RA for 2022-2025
 - a. RFO issuance date: December 10, 2021
 - b. Bid due date: December 23, 2021
 - c. Shortlist notification date: December 29, 2021
 - d. Number of parties RFO was distributed to: ~500 emails
 - e. Solicitation materials:

3. Request for Offers (RFO) of System, Bay Area, Sierra, Fresno, Kern, Any Local Area and Flex RA for 2022-2025
 - a. RFO issuance date: February 1, 2022
 - b. Bid due date: February 11, 2022
 - c. Shortlist notification date: February 15, 2022
 - d. Number of parties RFO was distributed to: ~500 emails
 - e. Solicitation materials:



525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

City and County of San Francisco – Hetch Hetchy Power & CleanPowerSF Request for Offers Resource Adequacy Supplies December 10, 2021

Background

The San Francisco Public Utilities Commission (SFPUC) - Power Enterprise is a department of the City and County of San Francisco (CCSF). The SFPUC operates Hetch Hetchy Power, a full-service retail utility, and CleanPowerSF, San Francisco’s Community Choice Aggregation Program, serving commercial and residential customers in the City and County of San Francisco. The SFPUC is a member of the WSPP under the name City and County of San Francisco (CCSF).

The SFPUC issues this Request for Offers (RFO) to purchase Resource Adequacy (RA) supplies delivered in 2022-2025 for **two counterparties**: 1) Hetch Hetchy Power (CCSF); and 2) CleanPowerSF (CPSF).

The SFPUC is seeking the following Resource Adequacy products:

Counterparty	Product	Area	Minimum Volume (MW)	Delivery Start	Delivery End	Term
CPSF to Purchase	Generic System RA	North and/or South System	1MW	9/1/2022	10/31/2022	Monthly or multiple month offers
CPSF or HHP to Purchase	Bay Area Local RA	Bay Area	1MW	3/1/2022 – 10/31/2022		Monthly or multiple month offers
CPSF or HHP to Purchase	Local RA (PG&E TAC)	Fresno	1MW	9/1/2022	12/31/2022	Monthly or multiple month offers
CPSF or HHP to Purchase	Local RA (PG&E TAC)	Sierra	1 MW	7/1/2022 – 11/30/2022		Monthly or multiple month offers
CPSF or HHP to Purchase	Local RA (PG&E TAC)	Kern	1 MW	5/1/2022 – 6/30/2022; 8/1/2022 – 12/31/2022		Monthly or multiple month offers
CPSF to Purchase / CPSF to Sell (Swap)	Purchase: Local RA (PG&E TAC) / Sell: Generic System RA	North and/or South System	1MW	3/1/2022	12/31/2022	Monthly or multiple month offers

CPSF to Sell	Generic System RA	North and/or South System	1MW	3/31/2022; 5/1/2022 – 6/30/2022; 11/1/2022 – 12/31/2022		Monthly or multiple month offers
CPSF to Sell	Import Allocation Rights (COB, NOB, PV)	IAR (COB, NOB, PV)	1 MW	3/1/2022	12/31/2022	Monthly or multiple month offers

Proposal Timing

RFO Issued	December 10, 2021
Bids Due	12:00 PM PPT, December 23, 2021
Notification of Award	December 29, 2021

Please submit bids to powerpurchasing@sfgwater.org by **12:00 PM PPT on Thursday, December 23, 2021. Bids will be evaluated on an ongoing basis and respondents are encouraged to submit bids early.**

On or before December 29th, the SFPUC will notify shortlisted sellers of their accepted offers to commence contract negotiations.

How to Respond

- Preference will be given to entities that are a WSPP member or have an existing Master Agreement in place with either counterparty.
- Provide information summarizing your specific bid(s) by completing Exhibit A.
- Attach any additional information relevant to your bid.
- SFPUC Origination and Power Supply staff will respond with an email to confirm your bid has been received.
- **Responses and/or questions should be addressed to: powerpurchasing@sfgwater.org**

REQUIRED WSPP AGREEMENT AMENDMENTS

A. General WSPP Amendments.

1. Payment

- (a) After Seller has delivered the Contract Quantity in accordance with this Confirmation and issued its invoice, Purchaser shall pay for the Product as provided in Article 9 of the WSPP Agreement, except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute.
- (b) Section 28.1 of the WSPP Agreement is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

- (c) Notwithstanding any other provision of this Agreement, Buyer shall not be deemed to be in default of this Agreement and no interest shall be assessed if an invoice under this Agreement cannot be processed by Buyer due to Seller's failure to comply with all applicable City requirements for City contractors, including but not limited to certification of vendors under Chapter 12 of the San Francisco Administrative Code, payment of business license fees or taxes, insurance requirements, registration in the City's vendor payment processing system, or any other current or future City requirement for vendor payment processing. Seller understands and acknowledges that vendor certifications may include annual renewals and additional certification requirements may apply to assignees or changes in ownership or control of Seller.
- (d) Notwithstanding any provision to the contrary in Section 9.2 of the Master Agreement, payments shall be due within thirty (30) days after receipt of the invoice. Any amount not paid by the Due Date shall be subject to a late payment penalty equal to a daily rate of \$5.50 per \$100,000.00 ("Late Payment Fee") for a maximum period of one hundred and eighty (180) calendar days after such payment is due.

2. Default and Termination

- (a) Section 22.1 is modified by inserting the following new text at the end of the Section:
 - "(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;
 - (g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
 - (h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."
- (b) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line and deleting the entire second sentence.
- (c) Section 22.3(c) is amended by deleting the third sentence in its entirety and replacing it with the following: "Notwithstanding anything to the contrary in the WSPP Agreement, if the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs after any set-off as set forth in Section 22.3(d) of the WSPP Agreement, the Termination Payment shall be zero dollars (\$0)."
- (d) Section 22.3(e) is deleted in its entirety and replaced with "[Reserved]".

3. Governing Law. Section 24 of the WSPP Agreement is deleted in its entirety and replaced with the following:

"This Agreement and any Transaction shall be governed by and construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law."

4. Collateral. Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

5. Confidentiality. Notwithstanding Section 30.1 of the WSPP Agreement,

- (a) The Parties may disclose information as necessary to its officers, employees, agents, consultants, and contractors as necessary for the performance of its obligations under this Agreement and as necessary to comply with any applicable law, regulation, rule, requirement, request, or order of a governmental body with jurisdiction, including the California ISO. In addition, Purchaser may disclose information as necessary to any subsequent buyer.
- (b) The Parties acknowledge that this Transaction, and all records related to its formation or performance, are subject to the California Public Records Act, (California Government Code section 6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67) and that either Party may be required to make public this Confirmation (which may be partially redacted by a Party) in connection with the process of seeking approval from its board or commission for the execution of this Confirmation. Each Party acknowledges that the other Party may submit

information to it that the other Party considers confidential, proprietary, or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255).

- (c) If a Party (“Disclosing Party”) contends that any information submitted to the other Party (“Receiving Party”) contains the Disclosing Party’s proprietary and confidential information which falls within one or more California Public Records Act exemptions, the Disclosing Party shall clearly mark such information “Proprietary and Confidential” and identify the specific lines containing such information. Upon request or demand of any third person or entity not a party to this Confirmation (“Requestor”) pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by the Disclosing Party as confidential, the Receiving Party as soon as practical shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be confidential information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the Receiving Party, the Disclosing Party agrees that the Disclosing Party may comply with the Requestor’s demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser’s legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6. Dispute Resolution.

- (a) Section 22.3(f) of the WSPP Agreement is deleted in its entirety and replaced with the following:

“If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”

- (b) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

In the event of any dispute arising under this Transaction, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after receipt of such notice, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Transaction.”

“34.2 EXCLUSIVE JURISDICTION

Each Party submits to the exclusive jurisdiction of the state or federal courts located in San Francisco, California, for any action or proceeding relating to this agreement or any Transaction, and expressly waives any objection it may have to such jurisdiction or the convenience of such forum.”

- (c) The second sentence of Section 34.3 is deleted in its entirety.

- (d) The phrase “arbitration or mediation” is hereby deleted from the first line of Section 34.4 and replaced with “dispute resolution”.

- (e) Exhibit D is deleted in its entirety.

7. Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.

8. Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

B. Purchaser Standard Terms

1. Designated Fund [**CleanPowerSF only**].

- (a) Auto-Appropriating Designated Fund. Buyer’s payment obligations under this Confirmation shall be paid from a SFPUC designated fund that will automatically appropriate CleanPowerSF revenues on an annual basis without further action and which shall be used solely for CleanPowerSF costs and expenses, including the Buyer’s obligations under this Confirmation. Buyer agrees to set CleanPowerSF’s rates and charges that are sufficient to maintain revenues necessary to pay all of Buyer’s payment obligations under its contracts for the purchase of energy or energy related products for CleanPowerSF. Buyer shall provide Seller with reasonable access to account balance information with respect to the CleanPowerSF designated fund at all times during the Delivery Period.
- (b) Limited Obligations. Buyer’s payment obligations under this Confirmation are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. Buyer’s payment obligations under this Confirmation are not a charge upon the revenues or general fund of the SFPUC or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco.

2. Guaranteed Maximum Cost.

- (a) Controller Certification. Buyer’s obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of Buyer are not authorized to request, and Buyer is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the Buyer are not authorized to offer or promise, nor is Buyer required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.
- (b) Biannual Budget Process. For each City and County of San Francisco biannual budget cycle during the term of this Confirmation, Buyer agrees to take all necessary action to include the maximum amount of its annual payment obligations under this Confirmation in its budget submitted to the City and County of San Francisco’s Board of Supervisors for each year of that budget cycle.

3. Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligations under this Confirmation, and must at all times materially comply with such applicable laws as they may be amended from time to time.

4. Prohibition on Political Activity with City Funds. In performing any services required under this Agreement, Seller shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

5. Nondiscrimination Requirements.

- (a) Non-discrimination in Contracts. Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-

- (k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.
- (b) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Seller does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.
6. Submitting False Claims. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (1) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (3) conspires to defraud the City by getting a false claim allowed or paid by the City; (4) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (5) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.
7. Consideration of Salary History. Seller shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Seller is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property.
8. Consideration of Criminal History in Hiring and Employment Decisions. Seller agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to Seller's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.
9. Conflict of Interest. By executing this Agreement, Seller certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.
10. Campaign Contributions. By executing this Agreement, Seller acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors; Seller's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Seller. Seller shall inform the relevant persons of the limitation on contributions imposed by Section 1.126.

C. Miscellaneous

1. Counterparts. This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.
2. Entire Agreement; No Oral Agreements or Modifications. This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

Post-Response Negotiations

SFPUC reserves the right to enter into discussions with respondent to gain clarity on its bid, or to suggest a partial amendment to the offer.

Disclaimer and Confidentiality

SFPUC reserves the right, without qualification and in its sole discretion, to reject any or all offers, accept multiple bids, and to terminate this request for bid in whole or in part at any time. Without limiting the foregoing, SFPUC further reserves the right in its sole discretion, to decline to enter into any agreement with any counterparty for any reason.

It is not SFPUC's intent to publicly disclose individual respondent proprietary information obtained in response to this request. This request is intended to provide information for SFPUC to select a bid to purchase energy, it should NOT be construed as a commitment by SFPUC to enter into a contractual agreement, nor will SFPUC pay for information solicited.



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City and County of San Francisco – Hetch Hetchy Power & CleanPowerSF Request for Offers Resource Adequacy Supplies February 1, 2022

Background

The San Francisco Public Utilities Commission (SFPUC) - Power Enterprise is a department of the City and County of San Francisco (CCSF). The SFPUC operates Hetch Hetchy Power, a full-service retail utility, and CleanPowerSF, San Francisco’s Community Choice Aggregation Program, serving commercial and residential customers in the City and County of San Francisco. The SFPUC is a member of the WSPP under the name City and County of San Francisco (CCSF).

The SFPUC issues this Request for Offers (RFO) to purchase Resource Adequacy (RA) supplies delivered in 2022-2025 for **two counterparties**: 1) Hetch Hetchy Power (CCSF); and 2) CleanPowerSF (CPSF).

The SFPUC is seeking the following Resource Adequacy products:

Counterparty	Product	Area	Minimum Volume (MW)	Delivery Start	Delivery End	Term
CPSF to Purchase	Generic System RA	North and/or South System	1MW	9/1/2022	10/31/2022	Monthly or multiple month offers
CPSF to Purchase	Local RA (PG&E TAC)	Bay Area	1MW	7/1/2022	10/31/2022	Monthly or multiple month offers
CPSF to Purchase	Local RA (PG&E TAC)	Fresno	1MW	9/1/2022	12/31/2022	Monthly or multiple month offers
CPSF to Purchase	Local RA (PG&E TAC)	Sierra	1 MW	6/1/2022	11/30/2022	Monthly or multiple month offers
CPSF to Purchase	Local RA (PG&E TAC)	Kern	1 MW	5/1/2022	12/31/2022	Monthly or multiple month offers
CPSF to Purchase / CPSF to Sell (Swap)	Purchase: Local RA (PG&E TAC) / Sell: Generic System RA	North and/or South System	1MW	5/1/2022	12/31/2022	Monthly or multiple month offers

Counterparty	Product	Area	Minimum Volume (MW)	Delivery Start	Delivery End	Term
CPSF to Sell	Generic System RA	North and/or South System	1MW	5/1/2022 – 6/30/2022; 11/1/2022 – 12/31/2022		Monthly or multiple month offers
CPSF to Sell	Import Allocation Rights (COB, NOB, PV)	IAR (COB, NOB, PV)	1 MW	5/1/2022	12/31/2022	Monthly or multiple month offers
CCSF to Purchase	Local RA (PG&E TAC) and Flexible RA	Any Local Area	1 MW	5/1/2022	10/31/2022	Monthly or multiple month offers

Proposal Timing

RFO Issued	February 1, 2022
Bids Due	12:00 PM PPT, February 11, 2022
Notification of Award	February 15, 2022

Please submit bids to powerpurchasing@sfgwater.org by **12:00 PM PPT on February 11, 2022**. **Bids will be evaluated on an ongoing basis and respondents are encouraged to submit bids early.**

On or before February 15th, the SFPUC will notify shortlisted sellers of their accepted offers to commence contract negotiations.

How to Respond

- Preference will be given to entities that are a WSPP member or have an existing Master Agreement in place with either counterparty.
- Provide information summarizing your specific bid(s) by completing Exhibit A.
- Attach any additional information relevant to your bid.
- SFPUC Origination and Power Supply staff will respond with an email to confirm your bid has been received.
- **Responses and/or questions should be addressed to: powerpurchasing@sfgwater.org**

REQUIRED WSPP AGREEMENT AMENDMENTS

A. General WSPP Amendments.

1. Payment

- (a) After Seller has delivered the Contract Quantity in accordance with this Confirmation and issued its invoice, Purchaser shall pay for the Product as provided in Article 9 of the WSPP Agreement, except that under Section 9.4 of the WSPP

Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute.

- (b) Section 28.1 of the WSPP Agreement is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.
- (c) Notwithstanding any other provision of this Agreement, Buyer shall not be deemed to be in default of this Agreement and no interest shall be assessed if an invoice under this Agreement cannot be processed by Buyer due to Seller's failure to comply with all applicable City requirements for City contractors, including but not limited to certification of vendors under Chapter 12 of the San Francisco Administrative Code, payment of business license fees or taxes, insurance requirements, registration in the City's vendor payment processing system, or any other current or future City requirement for vendor payment processing. Seller understands and acknowledges that vendor certifications may include annual renewals and additional certification requirements may apply to assignees or changes in ownership or control of Seller.
- (d) Notwithstanding any provision to the contrary in Section 9.2 of the Master Agreement, payments shall be due within thirty (30) days after receipt of the invoice. Any amount not paid by the Due Date shall be subject to a late payment penalty equal to a daily rate of \$5.50 per \$100,000.00 ("Late Payment Fee") for a maximum period of one hundred and eighty (180) calendar days after such payment is due.

2. Default and Termination

- (a) Section 22.1 is modified by inserting the following new text at the end of the Section:
 - "(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;
 - (g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
 - (h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."
- (b) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line and deleting the entire second sentence.
- (c) Section 22.3(c) is amended by deleting the third sentence in its entirety and replacing it with the following: "Notwithstanding anything to the contrary in the WSPP Agreement, if the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs after any set-off as set forth in Section 22.3(d) of the WSPP Agreement, the Termination Payment shall be zero dollars (\$0)."
- (d) Section 22.3(e) is deleted in its entirety and replaced with "[Reserved]".

3. Governing Law. Section 24 of the WSPP Agreement is deleted in its entirety and replaced with the following:

"This Agreement and any Transaction shall be governed by and construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law."

4. Collateral. Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

5. Confidentiality. Notwithstanding Section 30.1 of the WSPP Agreement,

- (a) The Parties may disclose information as necessary to its officers, employees, agents, consultants, and contractors as necessary for the performance of its obligations under this Agreement and as necessary to comply with any applicable law, regulation, rule, requirement, request, or order of a governmental body with jurisdiction, including the California ISO. In addition, Purchaser may disclose information as necessary to any subsequent buyer.

- (b) The Parties acknowledge that this Transaction, and all records related to its formation or performance, are subject to the California Public Records Act, (California Government Code section 6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67) and that either Party may be required to make public this Confirmation (which may be partially redacted by a Party) in connection with the process of seeking approval from its board or commission for the execution of this Confirmation. Each Party acknowledges that the other Party may submit information to it that the other Party considers confidential, proprietary, or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255).
- (c) If a Party (“Disclosing Party”) contends that any information submitted to the other Party (“Receiving Party”) contains the Disclosing Party’s proprietary and confidential information which falls within one or more California Public Records Act exemptions, the Disclosing Party shall clearly mark such information “Proprietary and Confidential” and identify the specific lines containing such information. Upon request or demand of any third person or entity not a party to this Confirmation (“Requestor”) pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by the Disclosing Party as confidential, the Receiving Party as soon as practical shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be confidential information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the Receiving Party, the Disclosing Party agrees that the Disclosing Party may comply with the Requestor’s demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser’s legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6. Dispute Resolution.

- (a) Section 22.3(f) of the WSPP Agreement is deleted in its entirety and replaced with the following:
- “If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”
- (b) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:
- “34.1 INFORMAL DISPUTE RESOLUTION
In the event of any dispute arising under this Transaction, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after receipt of such notice, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Transaction.”
- “34.2 EXCLUSIVE JURISDICTION
Each Party submits to the exclusive jurisdiction of the state or federal courts located in San Francisco, California, for any action or proceeding relating to this agreement or any Transaction, and expressly waives any objection it may have to such jurisdiction or the convenience of such forum.”
- (c) The second sentence of Section 34.3 is deleted in its entirety.
- (d) The phrase “arbitration or mediation” is hereby deleted from the first line of Section 34.4 and replaced with “dispute resolution”.

- (e) Exhibit D is deleted in its entirety.
7. Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.
8. Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:
- Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956).
- B. Purchaser Standard Terms**
1. Designated Fund [**CleanPowerSF only**].
- (a) Auto-Appropriating Designated Fund. Buyer’s payment obligations under this Confirmation shall be paid from a SFPUC designated fund that will automatically appropriate CleanPowerSF revenues on an annual basis without further action and which shall be used solely for CleanPowerSF costs and expenses, including the Buyer’s obligations under this Confirmation. Buyer agrees to set CleanPowerSF’s rates and charges that are sufficient to maintain revenues necessary to pay all of Buyer’s payment obligations under its contracts for the purchase of energy or energy related products for CleanPowerSF. Buyer shall provide Seller with reasonable access to account balance information with respect to the CleanPowerSF designated fund at all times during the Delivery Period.
- (b) Limited Obligations. Buyer’s payment obligations under this Confirmation are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. Buyer’s payment obligations under this Confirmation are not a charge upon the revenues or general fund of the SFPUC or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco.
2. Guaranteed Maximum Cost.
- (a) Controller Certification. Buyer’s obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of Buyer are not authorized to request, and Buyer is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the Buyer are not authorized to offer or promise, nor is Buyer required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.
- (b) Biannual Budget Process. For each City and County of San Francisco biannual budget cycle during the term of this Confirmation, Buyer agrees to take all necessary action to include the maximum amount of its annual payment obligations under this Confirmation in its budget submitted to the City and County of San Francisco’s Board of Supervisors for each year of that budget cycle.
3. Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligations under this Confirmation, and must at all times materially comply with such applicable laws as they may be amended from time to time.
4. Prohibition on Political Activity with City Funds. In performing any services required under this Agreement, Seller shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

5. **Nondiscrimination Requirements.**
 - (a) **Non-discrimination in Contracts.** Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.
 - (b) **Non-discrimination in the Provision of Employee Benefits.** San Francisco Administrative Code 12B.2. Seller does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.
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2. Entire Agreement; No Oral Agreements or Modifications. This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

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SFPUC reserves the right to enter into discussions with respondent to gain clarity on its bid, or to suggest a partial amendment to the offer.

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City and County of San Francisco – Hetch Hetchy Power & CleanPowerSF Request for Offers Resource Adequacy Supplies

November 9, 2021

Background

The San Francisco Public Utilities Commission (SFPUC) - Power Enterprise is a department of the City and County of San Francisco (CCSF). The SFPUC operates Hetch Hetchy Power, a full-service retail utility, and CleanPowerSF, San Francisco’s Community Choice Aggregation Program, serving commercial and residential customers in the City and County of San Francisco. The SFPUC is a member of the WSPP under the name City and County of San Francisco (CCSF).

The SFPUC issues this Request for Offers (RFO) to purchase Resource Adequacy (RA) supplies delivered in 2022-2025 for **two counterparties**: 1) Hetch Hetchy Power (CCSF); and 2) CleanPowerSF (CPSF).

The SFPUC is seeking the following Resource Adequacy products:

Counterparty	Product	Area	Minimum Volume (MW)	Delivery Start	Delivery End	Term
CPSF to Purchase	Generic System RA	North and/or South System	1MW	9/1/2022	10/31/2022	Monthly or multiple month offers
CPSF or HHP to Purchase	Bay Area Local RA	Bay Area	1MW	2/1/2022 – 4/30/2022; 7/1/2022 – 12/31/2022		Monthly or multiple month offers
CPSF or HHP to Purchase	Local RA (PG&E TAC)	Fresno	1MW	9/1/2022	12/31/2022	Monthly or multiple month offers
CPSF or HHP to Purchase	Local RA (PG&E TAC)	Sierra	1 MW	1/1/2022 – 5/31/2022; 7/1/2022 – 11/30/2022		Monthly or multiple month offers
CPSF or HHP to Purchase	Local RA (PG&E TAC)	Kern	1 MW	5/1/2022 – 6/30/2022; 8/1/2022 – 12/31/2022		Monthly or multiple month offers
CPSF to Purchase / CPSF to Sell (Swap)	Purchase: Local RA (PG&E TAC) / Sell: Generic System RA	North and/or South System	1MW	1/1/2022	12/31/2022	Monthly or multiple month offers



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CPSF to Sell	Import Allocation Rights (COB, NOB, PV)	IAR (COB, NOB, PV)	1 MW	1/1/2022	12/31/2022	Monthly or multiple month offers

Proposal Timing

RFO Issued	November 9, 2021
Bids Due	12:00 PM PPT, November 15, 2021
Notification of Award	November 15, 2021

Please submit bids to powerpurchasing@sfgwater.org by **12:00 PM PPT on Monday, November 15, 2021**. **Bids will be evaluated on an ongoing basis and respondents are encouraged to submit bids early.**

On or before November 15th, the SFPUC will notify shortlisted sellers of their accepted offers to commence contract negotiations.

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- (a) After Seller has delivered the Contract Quantity in accordance with this Confirmation and issued its invoice, Purchaser shall pay for the Product as provided in Article 9 of the WSPP Agreement, except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute.
- (b) Section 28.1 of the WSPP Agreement is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

- (c) Notwithstanding any other provision of this Agreement, Buyer shall not be deemed to be in default of this Agreement and no interest shall be assessed if an invoice under this Agreement cannot be processed by Buyer due to Seller's failure to comply with all applicable City requirements for City contractors, including but not limited to certification of vendors under Chapter 12 of the San Francisco Administrative Code, payment of business license fees or taxes, insurance requirements, registration in the City's vendor payment processing system, or any other current or future City requirement for vendor payment processing. Seller understands and acknowledges that vendor certifications may include annual renewals and additional certification requirements may apply to assignees or changes in ownership or control of Seller.
- (d) Notwithstanding any provision to the contrary in Section 9.2 of the Master Agreement, payments shall be due within thirty (30) days after receipt of the invoice. Any amount not paid by the Due Date shall be subject to a late payment penalty equal to a daily rate of \$5.50 per \$100,000.00 ("Late Payment Fee") for a maximum period of one hundred and eighty (180) calendar days after such payment is due.

2. Default and Termination

- (a) Section 22.1 is modified by inserting the following new text at the end of the Section:
 - "(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;
 - (g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
 - (h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."
- (b) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line and deleting the entire second sentence.
- (c) Section 22.3(c) is amended by deleting the third sentence in its entirety and replacing it with the following: "Notwithstanding anything to the contrary in the WSPP Agreement, if the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs after any set-off as set forth in Section 22.3(d) of the WSPP Agreement, the Termination Payment shall be zero dollars (\$0)."
- (d) Section 22.3(e) is deleted in its entirety and replaced with "[Reserved]".

3. Governing Law. Section 24 of the WSPP Agreement is deleted in its entirety and replaced with the following:

"This Agreement and any Transaction shall be governed by and construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law."

4. Collateral. Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

5. Confidentiality. Notwithstanding Section 30.1 of the WSPP Agreement,

- (a) The Parties may disclose information as necessary to its officers, employees, agents, consultants, and contractors as necessary for the performance of its obligations under this Agreement and as necessary to comply with any applicable law, regulation, rule, requirement, request, or order of a governmental body with jurisdiction, including the California ISO. In addition, Purchaser may disclose information as necessary to any subsequent buyer.
- (b) The Parties acknowledge that this Transaction, and all records related to its formation or performance, are subject to the California Public Records Act, (California Government Code section 6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67) and that either Party may be required to make public this Confirmation (which may be partially redacted by a Party) in connection with the process of seeking approval from its board or commission for the execution of this Confirmation. Each Party acknowledges that the other Party may submit information to it that the other Party considers confidential, proprietary, or trade secret information pursuant to the

Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255).

- (c) If a Party (“Disclosing Party”) contends that any information submitted to the other Party (“Receiving Party”) contains the Disclosing Party’s proprietary and confidential information which falls within one or more California Public Records Act exemptions, the Disclosing Party shall clearly mark such information “Proprietary and Confidential” and identify the specific lines containing such information. Upon request or demand of any third person or entity not a party to this Confirmation (“Requestor”) pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by the Disclosing Party as confidential, the Receiving Party as soon as practical shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be confidential information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the Receiving Party, the Disclosing Party agrees that the Disclosing Party may comply with the Requestor’s demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser’s legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6. Dispute Resolution.

- (a) Section 22.3(f) of the WSPP Agreement is deleted in its entirety and replaced with the following:

“If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”

- (b) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

In the event of any dispute arising under this Transaction, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after receipt of such notice, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Transaction.”

“34.2 EXCLUSIVE JURISDICTION

Each Party submits to the exclusive jurisdiction of the state or federal courts located in San Francisco, California, for any action or proceeding relating to this agreement or any Transaction, and expressly waives any objection it may have to such jurisdiction or the convenience of such forum.”

- (c) The second sentence of Section 34.3 is deleted in its entirety.
- (d) The phrase “arbitration or mediation” is hereby deleted from the first line of Section 34.4 and replaced with “dispute resolution”.
- (e) Exhibit D is deleted in its entirety.

7. Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.

8. Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to

by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

B. Purchaser Standard Terms

1. Designated Fund [**CleanPowerSF only**].

- (a) Auto-Appropriating Designated Fund. Buyer’s payment obligations under this Confirmation shall be paid from a SFPUC designated fund that will automatically appropriate CleanPowerSF revenues on an annual basis without further action and which shall be used solely for CleanPowerSF costs and expenses, including the Buyer’s obligations under this Confirmation. Buyer agrees to set CleanPowerSF’s rates and charges that are sufficient to maintain revenues necessary to pay all of Buyer’s payment obligations under its contracts for the purchase of energy or energy related products for CleanPowerSF. Buyer shall provide Seller with reasonable access to account balance information with respect to the CleanPowerSF designated fund at all times during the Delivery Period.
- (b) Limited Obligations. Buyer’s payment obligations under this Confirmation are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. Buyer’s payment obligations under this Confirmation are not a charge upon the revenues or general fund of the SFPUC or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco.

2. Guaranteed Maximum Cost.

- (a) Controller Certification. Buyer’s obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of Buyer are not authorized to request, and Buyer is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the Buyer are not authorized to offer or promise, nor is Buyer required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.
- (b) Biannual Budget Process. For each City and County of San Francisco biannual budget cycle during the term of this Confirmation, Buyer agrees to take all necessary action to include the maximum amount of its annual payment obligations under this Confirmation in its budget submitted to the City and County of San Francisco’s Board of Supervisors for each year of that budget cycle.

3. Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligations under this Confirmation, and must at all times materially comply with such applicable laws as they may be amended from time to time.

4. Prohibition on Political Activity with City Funds. In performing any services required under this Agreement, Seller shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

5. Nondiscrimination Requirements.

- (a) Non-discrimination in Contracts. Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

- (b) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Seller does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.
6. Submitting False Claims. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (1) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (3) conspires to defraud the City by getting a false claim allowed or paid by the City; (4) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (5) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.
7. Consideration of Salary History. Seller shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Seller is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property.
8. Consideration of Criminal History in Hiring and Employment Decisions. Seller agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to Seller's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.
9. Conflict of Interest. By executing this Agreement, Seller certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.
10. Campaign Contributions. By executing this Agreement, Seller acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors; Seller's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Seller. Seller shall inform the relevant persons of the limitation on contributions imposed by Section 1.126.

C. Miscellaneous

1. Counterparts. This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.
2. Entire Agreement; No Oral Agreements or Modifications. This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

Post-Response Negotiations

SFPUC reserves the right to enter into discussions with respondent to gain clarity on its bid, or to suggest a partial amendment to the offer.

Disclaimer and Confidentiality

SFPUC reserves the right, without qualification and in its sole discretion, to reject any or all offers, accept multiple bids, and to terminate this request for bid in whole or in part at any time. Without limiting the foregoing, SFPUC further reserves the right in its sole discretion, to decline to enter into any agreement with any counterparty for any reason.

It is not SFPUC's intent to publicly disclose individual respondent proprietary information obtained in response to this request. This request is intended to provide information for SFPUC to select a bid to purchase energy, it should NOT be construed as a commitment by SFPUC to enter into a contractual agreement, nor will SFPUC pay for information solicited.

APPENDIX C

CleanPowerSF RA RFO Notices Unique Entity
Contact List

CleanPowerSF distributed the above RFOs to the following list of unique entities:

CleanPowerSF RFO Supplier Distribution List

1st Light Energy	Greta Group
3 Phases Renewables	Grid Bright
3Degrees	GridSME
8minutenergy	Gridwell Consulting
8minutenergy Renewables	Hanergy America
ABACUS	Harron LLC
Aces	IEPA
ACT Commodities	IID
adaptiveARC	Intersect Power
AEP Energy Partners	JTN Energy
AES Distributed Energy	Just Energy
Agera Energy	Kelson Energy
Alameda Municipal Power	KFW Law
Alcoa Power Marketing LLC	KL Gates
AltaGas San Joaquin Energy Inc	LADWP
Altai Renewables	Large Scale Solar
Amazon	Lendlease
American Power Net	Liberty Power
American Renewable Power	Liberty Power Corp
Anaheim	Lodi
Apple Valley Choice Energy	LS Power
Atlas Renewable Power	MCE
Austin Wentworth Household	Merced ID
Avangrid Renewables	Middle River Power, LLC
AW-Energy Oy	Monterey Bay Community Power
Barovich and Yap	Morgan Lewis
Bay Area Rapid Transit	Morgan Stanley
BayWa r.e. Solar Projects	Mothership Energy Group
BBK Law	Mundo Investments
BGC Environmental Brokerage Services	MWR
BGC Partners	Natural Fiber Resources LLC
Black Bear Energy	Nevada Irrigation District
Bloom Energy	NewFields
Boston Energy Trading and Marketing, LLC	NextEnergy
BP Energy Co.	Nextera Energy

Braun Blasing Smith Wynne	Northern California Power Agency (NCPA)
Brookfield Energy Marketing LP	Nrg Energy Center S F Llc
Buchalter	NRG Renewables
CAISO	Ohm Connect
CalChoice	Opinion Dynamics
California Dept. of Water Resources	Origis Energy
California Energy Markets	Ormat
California Public Utilities Commission (CPUC)	Oscar Santos Household
California Resources Corporation	Pacific Energy Advisors, Inc.
Calpine Corporation	Pacific Gas and Electric Company (PG&E)
CalWEA	Panasonic
Candela Renewables	Pattern Energy
CBECal	Peninsula Clean Energy
CEDMC	PG&E
CEERT	Pilot Power Group
Centauri Energy	Pioneer Community Energy
CES Ltd	Placer County Water Agency
Citi Group	Port of Oakland
City of Anaheim	Powerex Corp.
City of Azusa	Public Power Council
City of Banning	Recurrent Energy
City of Colton	Renewable Energy Systems (RES)
City of Palo Alto	ReNewAll
City of Pasadena	Reterro
City of Santa Clara Department of Public Utilities	Riverside
City of Vernon	Rockland Capital
Clean Energy Collective	Rocky Mountain Institute
Clean Line Energy Partners	RPS Advisors
Clean Power Alliance	RTO Advisors
Clean Power Energy Management	San Diego Community Power
Clearway Energy Group	San Diego Gas & Electric
Clenera	San Jose Clean Energy
Cogentrix	SCD Energy
ConocoPhillips Company	Scout Clean Energy
Constellation Energy Commodities Group	Sempra Renewables
Coronal Energy	Shell Energy North America
CRC	Sierra Club
	Silicon Valley Clean Energy

Cypress Creek Renewables	Silicon Valley Power
Dentons	SMUD
Diamond Generating	Smyers
Direct Energy Business	Solar City
DMC Advisors	Solar Electric Solutions
DTE Energy Trading	Solar Frontier Americas
Duke Energy	Solar Provider Group
Dynegy	Sonoma Clean Power
E.ON Climate & Renewables North America	South Feather Water and Power
Earth Justice	Southern California Edison
East Bay Community Energy	Southern Power Company
East Bay Municipal Utility District	Southwestern Power Group
EDF Renewable Energy	Spower
EDF Trading	Stoel Rives LLP
Edms-llc	Storage Alliance
EDP Renewables North America	Strata Solar
EES Consulting	STX Services B.V.
ELSYS, Inc	Sunpin Solar
EMF	SunPower
Enbridge Inc.	Tenaska Power Services
Endurance Wind Power	Terra-Gen
Enel X	Tesla, Inc.
Energy Attorney	The Energy Authority
Energy Hub	The Utility Reform Network
Energy Visions	Thompson Coburn
EnerNOC, Inc.	Tiger Natural Gas
Engie	Tosdal Law Firm
Eq-research	TRANE
ESLawFirm	Transalta Corporation
Evolution Markets	Tullett Prebon
EVP Development	U.S. Geothermal
EWT Americas	Union of Concerned Scientists
FIRM clean energy	University of California, Office of the President (UCOP)
First Solar	Wadham Energy
Flynnrci	Water CA
Frontier Energy	Wellhead
Frontier Renewables	Western Area Power Administration
GE	Western Energy and Water
Genon	Westlands Solar Park
Gexa Energy	Wind Wall Development

Gladstein, Neandross & Associates
LLC
Glendale
Good Company Associates
Goodin Mac Bride
Grande Vista Energy

Winston
Woodruff Expert Services
Y Lehr Household
Yuba County Water Agency

APPENDIX D

CleanPowerSF Participation In
IOU RA RFO Notices in 2022

CleanPowerSF Participation in IOU Unbundled RA Solicitation

CleanPowerSF participated in two (2) solicitations from two investor-owned utilities as outlined below.

1. Pacific Gas & Electric (PG&E) RA and Import Energy E-Solicitation: System, Local, Import Allocation Rights (IAR)
 - a. RFO issuance date: January 11, 2022
 - b. Bid submission date: January 18, 2022
 - c. Shortlist notification date: January 26, 2022

2. Southern California Edison (SCE) Q12022 eSolicitation: May 2022-July 2022
 - a. RFO issuance date: February 1, 2022
 - b. Bid submission date: February 4, 2022
 - c. Shortlist notification date: February 21, 2022

From: [RA Solicitations](#)
To: [RA Solicitations](#)
Cc: PGE_IE@PACONSULTING.COM
Subject: PG&E RA and Import Energy E-Solicitation
Date: Tuesday, January 11, 2022 3:05:17 PM
Attachments: [EEI Import Allocation Rights Confirm.docx](#)
[EEI RA Confirm.docx](#)

CAUTION: This email originated from **outside** of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Prospective Participant:

Pacific Gas and Electric Company (“PG&E”) invites your participation in its **Resource Adequacy (“RA”) and Import Energy Electronic Solicitation (“E-Solicitation”)** via this Market Notice. Please see below for further details.

The deadline to submit a response is 5:00 pm PPT, Tuesday, January 18, 2022, unless subsequently modified by PG&E.

This Market Notice describes the schedule and process by which participants may submit offers and bids, and under which PG&E will evaluate all offers and bids submitted. PG&E, at its sole discretion, may change the terms, requirements, and schedule of this E-Solicitation.

PG&E is seeking the following proposals:

RA Capacity, Import Rights, and Import Energy

Product	PG&E is Seeking to	Minimum Volume	Delivery Period	Pricing
System RA	Buy, Sell, Simultaneous Buy/Sell	1 MW	Apr – Dec 2022	Fixed Price \$/kW-month
Local RA	Buy, Sell, Simultaneous Buy/Sell	1 MW	Apr – Dec 2022	Fixed Price \$/kW-month
Import Allocation Rights (IARs)	Sell	1 MW	Apr – Dec 2022	Fixed Price \$/kW-month
Import Energy *	Buy	5 MW	Apr – Dec 2022	CAISO LMP, ICE Index, or Fixed Price \$/MWh

**PG&E’s preference is to transact Import Energy indexed to CAISO LMP, but PG&E will consider offers for Fixed Prices or ICE Indexed transactions too.*

1. RA and IAR Master Agreement and Confirmations

PG&E will transact RA and IAR products under an EEI Master Agreement. The executed Master Agreement shall govern transactions entered into pursuant to this E-Solicitation, including transaction details agreed to in any RA or IAR Confirmation Agreement (“Confirmation”). If a successful participant does not have an executed EEI Master Agreement in place with PG&E at the time of shortlist acceptance, additional time may be required to execute an EEI Master Agreement prior to execution of any Confirmation(s). PG&E will not consider material changes to its RA or IAR confirmations issued with this solicitation.

PG&E provides the attached RA and IAR Confirmations that set forth the terms and conditions to create and define the Products to be transacted. The Confirmations require participants to comply with the RA requirements as implemented by both the California Public Utilities Commission and the California Independent System Operator (“CAISO”). The Confirmation is specific to transactions executed under an EEI Master Agreement with a PG&E Collateral Annex, and, as such, successful participants must have an EEI Master Agreement with a PG&E Collateral Annex in place with PG&E prior to execution of an unmodified Confirmation in this E-Solicitation. Modification of the Confirmation may be necessary for those participants without a PG&E Collateral Annex.

2. Import Energy Confirmation

Import Energy offers should be for WSPP Schedule C firm energy.

PG&E seeks to include the following language in Import Energy Confirmations:

Any energy associated with a Day Ahead or Real Time schedule interruption due to an Uncontrollable Force, consistent with provision C-3.7(b) of the WSPP Service Schedule C for Firm Capacity/Energy Sale or Exchange shall be deemed “Undelivered Energy”. PG&E deems CAISO overscheduling on paths as Uncontrollable Force. The contract quantity shall be reduced by the amount of any Undelivered Energy for settlement purposes.

Seller hereby agrees that the Product is not sourced from resources internal to the CAISO Balancing Authority Area. Buyer shall have no obligation to accept any energy sourced from resources internal to the CAISO Balancing Authority Area, and any such energy shall not be considered Product. The daily NERC E-tag will act as proof of an external source.

CAISO Balancing Authority Area refers to the collection of generation, transmission, and loads within the metered boundaries of the California Independent System Operator Corporation.

3. Submitting Offers and Bids

Interested participants should submit the Offer and Bid Form. PG&E has received some reports of firewall software blocking receipt of the Offer and Bid Form. **Therefore, the form will be delivered in a separate email following the market notice.** If you wish to participate in the solicitation and do not receive this second notice, please contact PG&E at RASolicitations@pge.com.

If seeking to transact Import Energy, participants should also include an Import Energy Confirmation which incorporates the language from Section 2 above.

PG&E will consider RA and IARs offers and bids final. PG&E may consider refreshed pricing for Import

Energy offers, especially if those offers are fixed price.

Offers and bids must be submitted via e-mail to the PG&E RA Solicitations mailbox (RASolicitations@pge.com), with a copy to the Independent Evaluator Charles Janecek (PGE_IE@PACONSULTING.COM) by the deadline indicated in Table 1 below. Telephonic, hardcopy, or facsimile transmission of an offer or bid is not acceptable. PG&E will not be responsible for any unsuccessful transmittals.

4. Schedule for Offers and Bids

The table below provides the tentative schedule for this E-Solicitation, which is subject to change at PG&E's discretion.

Table 1

Event	Target Deadline
PG&E launches E-solicitation	Tuesday, 1/11
Offers and Bids due	5pm (PPT) Tuesday, 1/18
PG&E notifies participants of shortlist status	Wednesday, 1/26
Deadline for notified shortlisted participants to accept shortlist status and final volumes	Thursday, 1/27
Target full execution of confirmations	Friday, 2/4

6. Contact Information

Questions regarding this E-Solicitation and process should be addressed to the PG&E RA Solicitations mailbox RASolicitations@pge.com, with a copy to the Independent Evaluator Charles Janecek (PGE_IE@PACONSULTING.COM).

7. Disclaimers

This E-Solicitation does not constitute an offer for sale or bid to purchase and creates no obligation to execute any agreement or to enter into any transaction. Any transactions are subject to PG&E management approval and execution of final documents. PG&E shall retain the right at any time, in its sole discretion, to reject any offer or bid and/or modify, suspend or cancel this E-Solicitation, for any reason whatsoever, without prior notification to Participants and without liability of any kind to, or responsibility of, PG&E or anyone acting on PG&E's behalf.

Thank you for your consideration of this E-Solicitation.

Kind regards,

PG&E



SOUTHERN CALIFORNIA EDISON COMPANY

2022Q1 RA eSolicitation

2022 Q1 Resource Adequacy (RA)
Capacity and Import Capability

Solicitation Instructions

February 1, 2022

EMAIL INQUIRIES & OFFERS TO

ra@sce.com

& Keith Oliver – Keith.Oliver@merrimackenergy.com

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Note: *These Solicitation Instructions and the Non-Disclosure Agreement (NDA), limit Respondents' ability to engage in communications with any other actual or potential participants in this Solicitation concerning this Solicitation. The NDA is provided in Exhibit A, which must be partially executed and submitted to SCE by Respondent no later than the Offer Submission Deadline, unless a fully executed evergreen NDA between Respondent and SCE already exists.*

In the event that a Respondent desires to (a) act as a marketing agent for a third party, (b) act as a credit sleeve for a third party, or (c) otherwise act as an agent or representative of a third party, in each case with respect to any Offer in the Solicitation, such Respondent and the third party should contact SCE and seek a waiver or amendment of such confidentiality provisions, which SCE may or may not grant in its sole discretion. Such a Respondent and the third party should be prepared to provide SCE with a written description of the proposed relationship between such parties and the proposed structure of their Offers. SCE reserves the right, in its sole discretion, to disqualify those Respondents that have not complied with the provisions of this paragraph.

1. Introduction

In this solicitation Southern California Edison Company ("SCE") seeks offers for the sale of Resource Adequacy ("RA") Capacity and/or Import Capability (Import Allocation Rights or IAR) from SCE to Offeror with delivery periods from May 1, 2022, through July 31, 2022. For SCE sales, only CAISO Load Serving Entities ("LSE") are eligible. SCE also seeks offers to purchase RA Capacity from Respondents with delivery periods from May 1, 2022 through October 31, 2022. This solicitation will hereafter be referred to as the "2022 Q1 RA eSolicitation, "eSolicitation", or "Solicitation". Each offer to purchase from SCE and/or sell to SCE will be referred to as an "Offer", and parties submitting such Offers will be referred to as "Respondent" or "Offeror".

The purpose of this document (the "Solicitation Instructions") is to provide Respondents with the product definition, schedule, submittal instructions, and the terms and conditions of Respondents' participation in this Solicitation. All Offers will be reviewed for completeness and conformity and evaluated on a competitive basis.

Capitalized terms not defined in these Solicitation Instructions have the meanings ascribed to them in the applicable Exhibits hereto or the current California Independent System Operator Corporation ("CAISO") tariff and protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time (the "CAISO Tariff").

SCE will utilize an independent evaluator, Merrimack Energy Group (the "IE"), in connection with this Solicitation.

2. Products Solicited

The eligible products for this eSolicitation are SCE sale to Offeror of May through July 2022 RA Capacity and RA Import Capability; and SCE purchase from Offeror of May through October 2022 RA Capacity, each individually referred to as a "Product" and collectively as the "Products".

2.1. RA Capacity

The following is a summary and description of the RA Capacity product for this Solicitation.

Table 1: RA Capacity

Product	RA Capacity	
Type	CAISO System	
Flexible Attribute	With or Without	
Minimum Volume	1 MW	
Price	Fixed (\$/kW-month)	
Contract Options	SCE Sales	SCE Purchases
Offer Increment	Standalone monthly Offers only	Standalone monthly Offers and Multi-Months Offers
Eligible Delivery Periods	May 2022 through July 2022	May 2022 through October 2022

Offer Variants – Respondents should Offer the maximum quantity desired for each applicable month with the corresponding Offer price. SCE may either select to sell full or partial Offer quantity at the Offer price based on availability competitively. Respondents may not change the Offer price after the Offer Submission Deadline.

RA Confirmation & EEI – RA purchases and sales from SCE to Offeror will be transacted through the terms described in the RA Capacity Confirmation (the "SCE Pro Forma RA Confirmation"), attached hereto as Exhibit B1, based on an executed EEI Master Power Purchase & Sale Agreement ("Enabling Agreement") between SCE and Respondent. For SCE Sales, changes to the pro forma RA confirmation will not be accepted in this Solicitation. Limited modifications may be considered for SCE Purchases.

Enablement Agreement Requirement – All Respondents must have an effective Enabling Agreement with SCE. Alternatively, Respondent must be able to leverage another party pre-enabled with SCE to conduct the transaction.

2.2. Import Capability Transfer Sales

Respondent may submit an Offer to buy from SCE Import Capability Transfer at specific CAISO interties. The import capability transfer product (a.k.a. import allocation rights or "IAR") does not include any RA capacity, energy, or ancillary services.

Table 2: Import Capability Transfer Product (May 2022 – July 2022)

Product	Import Capability Transfer (SCE Sells)
Intertie Delivery Points	PAC_MSL (COB) / NOB_ITC (NOB) / PALOVRDE_ITC (PV)
Minimum Volume	1 MW
Pricing	Fixed Price (\$/kW-month)
Monthly	May 2022 – July 2022

Import Capability Product shall transact through the terms described in the "SCE Import Capability Transfer Confirmation," attached hereto as Exhibit B2, and executed in accordance with the Enablement Agreement.

3. Solicitation Schedule

The following are key dates associated with this eSolicitation.

Event	Date
eSolicitation Launch	February 1, 2022
"Offer Submission Deadline" Respondents must submit a complete Offer workbook	February 4, 2022 @ 2:00 PM PPT

Event	SCE Sells	SCE Purchases
<p>“Selection Notification” SCE’s selection of an Offer is subject to final SCE management review and approval, consultation with SCE’s Procurement Review Group (“PRG”), and successful execution of the Confirmation.</p>	February 21, 2022	March 10, 2022
<p>“Contract Execution” Deadline for Respondent and SCE, as applicable, to Execute Final Confirmation(s).</p>	March 15, 2022	April 15, 2022

Unless stated otherwise in the above table, deadlines will be set at close of business (5:00 p.m. PPT). SCE reserves the right to revise this schedule at any time and in SCE’s sole discretion.

4. Eligibility Requirements

Respondents to this eSolicitation must comply with the requirements in these eSolicitation Instructions. Respondents that fail to comply with the requirements in these eSolicitation Instructions may be deemed ineligible and their Offers may not be considered.

SCE, in its sole discretion, may change the terms, requirements, and schedule of this eSolicitation.

By participating in this eSolicitation the Respondent specifically acknowledges the following:

1. **For SCE Sales**, Respondent is a Load Serving Entity within the CAISO balancing authority area.
2. If Respondent is deemed eligible to submit an Offer, any Offer submitted by Respondent is considered a final Offer and cannot be modified by Respondent. SCE however reserves the right to clarify and further refine all Offers at its sole

discretion, including but not limited to Product type, parameters, price and quantity.

3. All **SCE Sale** transactions in this Solicitation will be based on the accompanied pro forma confirmations. The terms of these confirmations are non-negotiable.
4. SCE affiliates are ineligible.

5. Credit Requirements

SCE requires that Respondents post collateral (either cash or a letter of credit) for SCE's exposure above an unsecured credit line, if any. Only investment grade-rated Respondents are eligible for an unsecured credit line. Alternatively, a Respondent may be eligible for an unsecured credit line by providing a guaranty from an investment grade-rated corporate parent (the "Guaranty"). A form of such guaranty can be provided by SCE upon request. SCE will not accept a Guaranty from third parties that are not affiliated with the Respondent. Respondents that are not rated or are rated below investment grade shall be required to post collateral for all of SCE's exposure in addition to an independent amount.

SCE is a California load-serving utility with investment grade credit ratings and substantial tangible net worth. Any Offer that requires SCE to post collateral will be rejected by SCE.

SCE reserves the right to disqualify Respondents that are unwilling or unable to meet these credit requirements.

Use of a funds transfer agent and a Funds Transfer Agent Agreement ("FTAA") in order to fulfill payment obligations may not fulfill SCE's collateral requirements. Respondents in such case will have to arrange for additional collateral.

6. Offer Submittal Instructions

IMPORTANT – The primary method for exchange of information or documents concerning this Solicitation, including any such exchange concerning the preparation or submission of Offers to SCE, will be the PowerAdvocate® website:

<https://www.poweradvocate.com/pR.do?okey=130995&pubEvent=true>

All participants interested in submitting Offers for this Solicitation will need to pre-register with PowerAdvocate®. Participants who do not have an existing PowerAdvocate® account must first register to create a username and password. This information is required to gain access to the Solicitation materials (via **event code 130995**). Users with an existing PowerAdvocate® account can readily access the Solicitation site and associated materials. For additional information on registering, please visit:

https://www.poweradvocate.com/WebHelp_Sourcing_Intel_Supplier/Content/Resources/Sourcing_Intel_Supplier_Guide.pdf

SCE strongly encourages participants to register with PowerAdvocate® well before Offers are due. PowerAdvocate® registrants should submit Offers under the parent company of the entity, not its contractors, subcontractors, consultants, or agents. For any registration or access issues, please contact support@poweradvocate.com.

6.1. Submission of Offers

In order to have a complete and conforming Offer submittal package, a Respondent must submit the following documents (“e-Solicitation Documents”) via Power Advocate by the Offer Submittal Deadline:

1. A fully completed Offer Workbook;
2. A partially executed Non-Disclosure Agreement (NDA), unless Respondent already has in place an evergreen NDA with SCE (please note this on Offer submittal);
3. A completed pro forma RA Confirmation (Exhibit B1 - SCE Pro Forma RA Confirmation and/or Exhibit B2 - SCE Pro Forma Import Capability Transfer Confirmation, with all the relevant data fields filled in. For SCE Sales, changes to the pro forma Confirmation(s) will not be accepted in this Solicitation for either Product type. Limited modifications may be considered for SCE Purchases;
4. If Respondent is a government entity, an unexecuted draft Certificate of Authority (Exhibit C) including all applicable exhibits.

All documents will be made available through the PowerAdvocate® site. All forms uploaded for consideration must be in their original format, i.e. not converted to a Portable Document Format (PDF); provided, signature pages of the NDA may be uploaded as a PDF. Failure to provide the listed information may result in the Offer

being deemed non-conforming and may disqualify the Offer from further consideration.

SCE will not accept Offers received after the Offer Submittal Deadline. SCE will only consider submissions that, as of the submittal deadline, constitute complete and conforming Offers. Offers **must** be submitted to the PowerAdvocate® website. Should a Respondent experience issues submitting their Offer to the PowerAdvocate® website, SCE strongly encourages that Respondent contact SCE at its earliest ability via a) the PowerAdvocate® website, or b) by email at RA@sce.com. Any email exchange must include IE. By responding to this eSolicitation, each Respondent agrees to be bound by all terms, conditions and other provisions of this eSolicitation (including these eSolicitation Instructions) and any changes or supplements to it that may be issued by SCE.

6.2. Selection Notification

By the Selection Notification date, SCE will notify Respondents if their Offers have been contingently selected. Upon such contingent selection, such Offer become binding on Respondent and Respondent may not modify, alter, withdraw or otherwise revise such Offer. SCE selection is contingent upon consultation with SCE's Procurement Review Group ("PRG"), final SCE management review and approval, successful negotiation of the Transaction Documents, and SCE's execution and delivery of the applicable transaction Documents.

6.3. Execution of Confirmations and Certificate of Authority

By submitting an Offer in SCE's RA eSolicitation, Respondent agrees to execute a Confirmation and Certificate of Authority (if applicable) consistent with the terms of the Offer(s) submitted by the Respondent and contingently selected by SCE, and containing such terms and conditions as may be mutually acceptable to SCE and the Respondent on or before the Execution Deadline. The Certificate of Authority must be executed by the Respondent on the same date as the RA Confirmation is partially executed by the Respondent. The Confirmation will only be considered executed once authorized officers of both SCE and the Respondent have executed and delivered the Confirmation.

7. Evaluation Criteria

This eSolicitation will utilize a single pricing value process to assess of all Offers based on SCE's most recent market forecast. All Offers will initially be assessed for conformance with the requirements set forth in these eSolicitation Instructions. Respondents are responsible for the accuracy of all figures, calculations, and representations. In addition to the foregoing, there will be both quantitative and qualitative considerations involved with evaluating Offers in accordance with the SCE Bundled Procurement Plan (BPP). Any Offer within this eSolicitation will be considered a final Offer which cannot be modified by Respondent, and which shall be subject to SCE's acceptance, execution and delivery, as determined by SCE in its sole discretion.

7.1. Quantitative Evaluation

The valuation of each Offer considers cash flow components for both cost and revenue. These components are then netted and discounted to yield a Net Present Value ("NPV") for each Offer. The NPV is compared to other Offers or potential combinations of Offers to find the "Least Cost" selection set which meets SCE's minimum procurement obligation. For this eSolicitation, SCE will be assessing the costs and benefits associated with each Offer, which may include capacity payments, natural gas toll, forecasted market implied heat rate, debt equivalence, potential credit and collateral adders, and SCE's ascribed RA and Energy benefits. SCE will then select a set of Offers with the goal of minimizing the cost to SCE's customers, while meeting the defined needs, subject to a set of constraints such as counterparty volume limits.

7.2. Qualitative Evaluation

In addition to the quantitative factors described above, there are other factors which may impact the selection of an Offer. These may include, among other factors, project viability, location within a Disadvantaged Community ("DAC"), adherence to the parameters for this eSolicitation, Offers for flexible capacity, Offers for local capacity, changes to the eSolicitation Documents, counterparty concentration and creditworthiness.

8. Communication & Independent Evaluator

As described in Section 6 above, the primary communication method concerning this Solicitation will be via PowerAdvocate® or by email. SCE may, in its sole discretion, decline to respond to any email or other inquiry about the Solicitation without liability or responsibility.

8.1. Independent Evaluator

Questions regarding the integrity of the evaluation process or the role of the IE may be referred to Wayne Oliver or Keith Oliver of Merrimack Energy at the following e-mail address: Wayne.Oliver@merrimackenergy.com and Keith.Oliver@merrimackenergy.com.

9. Confidentiality

With respect to SCE and the IE, information provided by Respondent to SCE and the IE for purposes of this eSolicitation will be subject to (i) a fully executed Confidentiality Agreement and (ii) all applicable CPUC disclosure requirements including, CPUC D.06-06-066.

10. General Information & Reservation of Rights

- a) Any transaction resulting from this eSolicitation will be documented in an executed applicable Confirmation under an executed Enabling Agreement between SCE and Respondent, as applicable.
- b) SCE may, in its sole discretion, enter into transactions with one or more Respondents submitting Offers.
- c) SCE may, in its sole discretion, request a Respondent to modify their price, Contract Quantity, and/or RA attributes Offered, or otherwise issue a counteroffer during the negotiation phase in this eSolicitation.
- d) SCE may execute a transaction with selected Respondents at any time during the negotiation phase or may choose to execute none at all.
- e) SCE retains the discretion, in its sole discretion, to: (a) reject any Offer in the event the Offer does not provide adequate benefit to SCE's customers; (b) formulate and implement appropriate criteria for the evaluation and selection

- of Offers; and (c) negotiate with any Respondent in order to maximize the value for SCE's customers.
- f) In addition to the limitations on Offers set forth in these eSolicitation Instructions, SCE reserves the right, in its sole discretion, to limit the number of Offers that can be submitted by any Respondent.
 - g) Respondents are required to meet all the terms and conditions of the eSolicitation to be eligible to compete in the solicitation process. Respondents are required to submit all requested information and follow all instructions contained in these eSolicitation Instructions, including, but not limited to, submitting conforming Offers and eSolicitation Documents in compliance with the eSolicitation Schedule.
 - h) By participating in this eSolicitation, including, without limitation, by submitting an Offer, Respondent agrees to all terms, conditions, representations, warranties, and covenants in these eSolicitation Instructions. Other than the representations, warranties and covenants made by Respondent in these eSolicitation Instructions and the executed Confidentiality Agreement between SCE and Respondent, submittal of any document pertaining to this eSolicitation, including, without limitation, one or more Offers, or receipt of any contingent selection, is not intended to, and does not, constitute a binding agreement of, or establish any obligation of SCE.
 - i) SCE reserves the right, at any time and during this eSolicitation in its sole discretion, to abandon this eSolicitation, to change any dates specified in this eSolicitation, to change the basis for the evaluation of Offers, to terminate further participation in this process by any party, to accept any Offer, to enter into any agreement, to evaluate the qualifications of any Respondent or the terms and conditions of any Offer, to reject any or all Offers, to prohibit or limit mutually exclusive and mutually inclusive Offers, to change any form or document used in this eSolicitation, waive any irregularities, and otherwise modify the eSolicitation in any way, without notice and without assigning any reasons and without liability of Edison International, SCE, or any of their respective subsidiaries, affiliates, employees, officers, directors, other agents, and representatives.

SCE shall have no obligation to consider any Offer submitted by a Respondent. SCE will not reimburse any Respondent for any of its expenses

related to this eSolicitation under any circumstances, regardless of whether the eSolicitation proceeds to execution of any transactions or is abandoned, and regardless of whether or not SCE enters into a transaction with the Respondent. With respect to Respondents who have applicable Enabling Agreements executed and effective prior to the time when such Respondent submits an Offer, SCE shall not be deemed to have accepted any such Offer, and shall not be bound by any term thereof, unless and until an authorized representative of SCE (executes a Confirmation with respect to such Offer. With respect to Respondents who do not have applicable Enabling Agreements executed and effective prior to the time such Respondent submits an Offer, SCE shall not be deemed to have accepted any such Offer, and shall not be bound by any term thereof, unless and until an authorized representative of SCE executes a Confirmation and an Enabling Agreement with the Respondent. The establishment, update, or modification of any regulatory requirement which potentially impacts SCE's decision regarding selection of Offers may result in SCE revising any portion of any document related to this eSolicitation, including, without limitation, the elimination of one or more products sought hereunder and/or revising the schedule set forth herein.

- j) SCE encourages Women-Owned, Minority-Owned, and Disabled Veteran-Owned Business Enterprises and Lesbian, Gay, Bisexual and/or Transgender Business Enterprises ("Diverse Business Enterprise(s)") to participate in the eSolicitation. To be considered as a Diverse Business Enterprise, Respondent must provide a copy of a valid certificate that verifies Respondent's Diverse Business Enterprise status. Information on SCE's diversity supplier program can be found at: <https://www.sce.com/wps/portal/home/partners/buying-selling/supplier-diversity/>.

Diverse Business Enterprises are welcome to submit Offers into this eSolicitation and FTAA's may be considered. However, depending on the term, quantity, and the resulting exposure related to any Offers, an FTAA may not fulfill SCE's collateral requirement in which case additional collateral will have to be arranged.

Further, as provided in Section 6.3 of CPUC General Order 156, SCE's Supplier Diversity efforts include encouraging its Respondent's to develop plans to utilize Diverse Business Enterprises subcontractors. SCE can help Respondent's with identifying Diverse Business Enterprises for subcontracting opportunities.

11. Respondent's Waiver of Claims & Limitation of Remedies

By participating in this eSolicitation, including, without limitation, by submitting an Offer:

- a) Respondent acknowledges and agrees that it is knowingly, voluntarily, and completely waiving any rights under statute, regulation, state or federal constitution, or common law to assert any claim, complaint, or other challenge in any regulatory, judicial, or other forum, including, without limitation, the CPUC (except as expressly provided below), the Federal Energy Regulatory Commission ("FERC"), the Superior Court of the State of California ("State Court") or any U.S. District Court ("Federal Court") concerning or related in any way to this eSolicitation or any unexecuted documents related to this eSolicitation, including, without limitation, all exhibits, attachments, and appendices thereto ("Waived Claims").
- b) Respondent acknowledges and agrees that if it asserts any Waived Claim at the CPUC, FERC, State Court, or Federal Court, or otherwise in any forum, to the extent that Respondent's Offer has not already been disqualified, SCE is entitled to automatically disqualify such Offer from further consideration in the eSolicitation or otherwise, and further, SCE may elect to terminate the eSolicitation.
- c) Respondent acknowledges and agrees that the sole forum in which Respondent may assert any challenge with respect to the conduct or results of the eSolicitation is at the CPUC and that: (1) the sole means of challenging the conduct or results of the eSolicitation is a complaint filed under Article 4, Complaints and Investigations, of Division 2, Chapter 2 of Title 20, Public Utilities and Energy, of the California Code of Regulations, (2) the sole basis for any such complaint shall be that SCE allegedly failed in a material respect to conduct the solicitation generally consistent with these eSolicitation Instructions; and (3) the exclusive remedy available to Respondent in the case of such a complaint shall be an order of the CPUC that SCE engaged in conduct that the CPUC determines was not generally consistent with these eSolicitation Instructions or any documents related to this eSolicitation (including exhibits, attachments, and appendices).
- d) Respondent expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs and/or attorneys' fees. Unless SCE elects to do otherwise

- in its sole discretion, during the pendency of such a complaint, the eSolicitation and any related regulatory proceedings related to the eSolicitation will continue as if the complaint had not been filed, unless the CPUC issues an order suspending the eSolicitation or SCE has elected to terminate or suspend the eSolicitation or any portion thereof.
- e) Respondent acknowledges and agrees that if Respondent asserts any Waived Claim, SCE shall be entitled to seek immediate dismissal of Respondent's claim, complaint, or other challenge, with prejudice, by filing a motion to dismiss (or similar procedural device) supported by the language in these eSolicitation Instructions and that Respondent will not challenge or oppose such a motion to dismiss (or similar procedural device).
 - f) Respondent acknowledges and agrees that if it asserts any Waived Claim, and if SCE successfully has that claim dismissed or transferred to the CPUC, Respondent shall pay SCE's full costs and expenses incurred in seeking such dismissal or transfer, including, without limitation, reasonable attorneys' fees and expenses.
 - g) Respondent agrees to indemnify and hold SCE harmless from any and all claims by any other party asserted in response to the assertion of any Waived Claim by Respondent and for reasonable costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by SCE or as a result of a Respondent's complaint filing at the CPUC resulting from the eSolicitation.
 - h) Except as expressly provided in the documents related to this eSolicitation, nothing herein, including, without limitation, Respondent's waiver of any Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of SCE.
 - i) In the event Respondent is deemed eligible by SCE to submit an Offer, Respondent submits an Offer, SCE notifies Respondent that SCE accepts such Offer and there is a dispute related to the terms of any such Offer, such dispute shall be resolved in accordance with the terms of the dispute resolution provisions set forth in the eSolicitation Documents which were part of such Offer.

12. Respondent's Representations, Warranties & Covenants

By participating in this eSolicitation, including, without limitation, by submitting an Offer, Respondent (A) agrees to be bound by the conditions of the eSolicitation, including the terms of these eSolicitation Instructions; and (B) makes the following representations, warranties, and covenants to SCE, which representations, warranties, and covenants shall be deemed to be incorporated in their entirety into each of Respondent's Offers:

- a) Respondent has read, understands and agrees to be bound by all terms, conditions and other provisions of the eSolicitation Documents.
- b) Respondent has had the opportunity to seek independent legal and financial advice of its own choosing with respect to the eSolicitation, the eSolicitation Documents, and these eSolicitation Instructions, including any exhibits to such documents.
- c) Respondent has obtained all necessary authorizations, approvals and waivers, if any, required by Respondent to submit its Offer and, (a) required to enter into and execute, if necessary, any necessary Enabling Agreements in the form of the applicable Enabling Agreements negotiated with SCE and (b) required to enter into a Transaction with SCE under the applicable executed Enabling Agreement (if required) for the respective products, in the form of the Confirmation, as applicable, negotiated with SCE.
- d) Respondent's Offer complies with all applicable laws and regulations.
- e) Respondent (a) has not engaged, and covenants that it will not engage, in any communications with any other actual or potential participant in the eSolicitation concerning this solicitation, price terms in Respondent's Offer, or related matters, without disclosure to SCE and a waiver by SCE of any applicable confidentiality provisions, including, but not limited to those set forth in the Confidentiality Agreement and these eSolicitation Instructions, and (b) has not engaged in collusion or other unlawful or unfair business practices in connection with this eSolicitation.
- f) Each Offer submitted by Respondent (a) is a Offer subject only to SCE's contingent selection, in SCE's sole discretion, and (b) in the event there is any dispute related to the terms of any such Offer, such dispute shall be resolved in accordance with the terms of the dispute resolution provisions set forth in the eSolicitation Documents which were part of such Offer.

- g) The information and documents submitted by Respondent to SCE in connection with this eSolicitation are true and accurate as of the date of Respondent's Offer submittal. Respondent covenants that it will promptly update such information upon any material change thereto.

13. Respondent's Offer & Acknowledgement

By participating in this eSolicitation, including, without limitation, by submitting an Offer, Respondent acknowledges and agrees that:

- a) SCE may rely upon all of Respondent's representations, warranties, and covenants in this eSolicitation (including, without limitation, in these eSolicitation Instructions, in the eSolicitation Documents and in any Offer submitted by Respondent);
- b) SCE may disclose information as set forth in the Confidentiality Agreement and as described in these eSolicitation Instructions; and
- c) In SCE's evaluation of Offers pursuant to this eSolicitation, SCE has the right to disqualify a Respondent that is unwilling or unable to meet SCE's credit requirements, or any other requirements of this eSolicitation, as determined by SCE in its sole discretion.

BY PARTICIPATING IN THIS E-SOLICITATION, INCLUDING, WITHOUT LIMITATION, BY SUBMITTING AN OFFER, RESPONDENT ACKNOWLEDGES AND AGREES THAT ANY BREACH BY RESPONDENT OF ANY OF THE REPRESENTATIONS, WARRANTIES AND COVENANTS IN THESE E-SOLICITATION INSTRUCTIONS AND ALL OTHER E-SOLICITATION DOCUMENTS SHALL CONSTITUTE GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH RESPONDENT, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO SCE UNDER APPLICABLE LAW, AND DEPENDING ON THE NATURE OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE E-SOLICITATION IN ITS ENTIRETY, OR FOR PROHIBITING RESPONDENT FROM PARTICIPATING IN FUTURE SOLICITATIONS OR PLACING ADDITIONAL REQUIREMENTS ON RESPONDENT IN FUTURE SOLICITATIONS.

14. Exhibits

Exhibit A – SCE Non-Disclosure Agreement

Exhibit B1 – SCE Pro Forma RA Confirmation

Exhibit B2 – SCE Pro Forma Import Capability Transfer Confirmation

Exhibit C – Certificate of Authority

Exhibit D – Offer Workbook for RA Capacity and/or Import Capability Transfer

CONFIDENTIAL

APPENDIX E

CleanPowerSF's RA RFO Bid Information

CONFIDENTIAL

APPENDIX F

CleanPowerSF's Bid Information in IOU
Solicitations

CONFIDENTIAL

APPENDIX G

Confidential Attachment A to CleanPowerSF
Advice Letter 18-E

CONFIDENTIAL

DECLARATION OF ERIN B. MULBERG IN
SUPPORT OF CLEANPOWERSF'S ADVICE
LETTER 23-E

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations.

R.19-11-009
(Filed November 7, 2019)

**DECLARATION OF MICHAEL A. HYAMS IN SUPPORT OF CONFIDENTIAL
TREATMENT OF DATA AND INFORMATION CONTAINED IN
CLEANPOWERSF'S ADVICE LETTER 23-E**

I, Michael A. Hyams declare and state:

1. I am the Director of CleanPowerSF. As such, I have responsibility and oversight of CleanPowerSF's energy procurement, policy, compliance, and reporting. CleanPowerSF is the community choice aggregator ("CCA") for the City and County of San Francisco.
2. I have been authorized by Barbara Hale, Assistant General Manager for Power of the San Francisco Public Utilities Commission, to make this Declaration on behalf of CleanPowerSF.
3. I am making this Declaration in accordance with California Public Utilities Commission (Commission) Decision (D.) 06-06-066, D.08-04-023, D.20-07-005, and General Order (GO) 66-D which govern the submission of confidential, market-sensitive energy procurement information to the Commission.
4. Attachment A to this Declaration contains a table identifying the data and information for which CleanPowerSF seeks confidential treatment. Attachment A is incorporated by reference in its entirety into this Declaration.
5. The table specifies that the material CleanPowerSF seeks to protect constitutes confidential, market-sensitive data and information covered by D.06-06-066, D.08-04-023,

- D.20-07-005, and the CCA and ESP Confidentiality Matrix.¹
6. The Commission has granted confidential treatment of similar information in both its Resource Adequacy (R.17-09-020) and Integrated Resource Planning (R.20-05-003) proceedings.²
 7. As demonstrated in the attached table, the categories of information for which CleanPowerSF seeks confidential protection are consistent with categories of information that are treated as confidential for CCA and ESPs, and are reasonably tailored to address confidentiality concerns.
 8. In addition, the Commission has discretion to determine whether the public interest in keeping confidential materials confidential outweighs the public interest in making them public.³
 9. The Commission has also determined that data that does not fall precisely within a Confidentiality Matrix category but which “consists of information from which [Matrix category] information may be easily derived” is eligible for the confidential treatment specified in the corresponding Confidentiality Matrix category.⁴
 10. The attached table specifies the data and information for which CleanPowerSF seeks confidential treatment, the protected categories of information under which the data and information fall, and why confidential treatment is justified.
 11. CleanPowerSF is complying with the limitations on confidentiality specified for the particular type of data, as listed in the table.

¹ D.20-07-005, pp. 3-5 (applying ESP Matrix to CCAs). D.21-11-029 adopted the latest, applicable CCA and ESP matrix. (See Attachment 2, Appendix 2.)

² R. 17-09-020, *Administrative Law Judge’s Ruling Granting California Community Choice Association’s Request to Submit Information Under Seal* (May 18, 2018); R.20-05-003, *Administrative Law Judge’s Ruling Granting Motions to File Under Seal for Portions of Individual Integrated Resource Plans And Requiring Re-Filing Of Certain Related Information* (Sept. 23, 2021), pp. 2, 7.

³ D.06-06-066, as modified by D.07-05-032, pgs. 5-6. “[T]he test for non-disclosure to the public includes whether ‘the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.’ (See e.g., Gov. Code, §6255, subd. (a).)”

⁴ R.06-05-027, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, p. 2 (May 4, 2007).

12. The data and information listed in the table are not already public, and due to the format of the reporting templates cannot be aggregated, redacted, summarized or otherwise protected in a way that allows partial disclosure.
13. I have personal knowledge of the facts and representations herein, except for those facts expressly stated to be based upon information and belief, and as to those matters, I believe them to be true.
14. Based on the foregoing, I make this Declaration supporting the confidential treatment of data and information contained in CleanPowerSF's Advice Letter 23-E appendices and in the Declaration of Erin B. Mulberg in Support of CleanPowerSF's Advice Letter 23-E, submitted on March 17, 2022.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 17, 2022, at San Anselmo, California.

By: 
MICHAEL A. HYAMS

Director, CleanPowerSF

San Francisco Public Utilities Commission,
Power Enterprise
525 Golden Gate Avenue, 7th Floor
San Francisco, CA. 94103
Phone: (415) 554-1590
Email: mhyams@sfwater.org

DECLARATION OF MICHAEL A. HYAMS IN SUPPORT OF CONFIDENTIAL TREATMENT OF DATA AND INFORMATION
CONTAINED IN CLEANPOWERSF’S ADVICE LETTER 23-E (DATED MARCH 17, 2022)
ATTACHMENT A – TABLE OF CONFIDENTIAL INFORMATION

CleanPowerSF Advice Letter 23-E (and Appendices)			
Confidential Data or Information	Category from D.06-06-066, D.08-04-023, D.21-11-029	Justification for Confidential Treatment	Length of Time for Data to be Treated as Confidential
<p>Confidential Appendix A (CleanPowerSF Local Capacity Area Resource Adequacy Waiver Request)</p> <p>Entire document - CleanPowerSF’s specific area, month and capacity waiver request for May as identified by the amount of deficiency.</p> <p>Confidential Appendix G (CleanPowerSF Local Capacity Area Resource Adequacy Waiver Request, Attachment A to CleanPowerSF AL18-E)</p> <p>Entire document - CleanPowerSF’s specific area, month and capacity waiver request for the year as identified by the amount of deficiency.</p>	<p>CCA and ESP Matrix § II.B (Supply data (both year ahead and month ahead).</p> <p>General Order 66-D, specifically Government Code section 6254(k) and Evidence Code sections 1040 (regarding “official information”) and 1060 (regarding “trade secrets”); and Government Code section 6255(a) (regarding the public interest exemption under the California Public Records Act).</p>	<p>The specified information from this appendix corresponds to the listed CCA and ESP Confidentiality Matrix categories and constitutes confidential and highly-sensitive market information. Disclosure of such information would enable any interested person to identify CleanPowerSF’s procurement requirements, RA position, and detailed RA capacity supply data. Consistent with D.06-06-066,D.08-04-023, and D.20-07-005, this information should be protected as confidential, market-sensitive information.</p> <p>In addition, release of this information would compromise the available markets for capacity, and allow dominant market participants to exercise market power and manipulate compliance with the Commission’s RA program. As a consequence, there would be a severe negative impact on the ability of CleanPowerSF to negotiate and procure RA capacity on terms reasonable for its ratepayers. The public interest served by disclosing this information is clearly outweighed by the public interest in withholding such information from disclosure, given the sensitivity of the information and the potential harm that would be caused by its disclosure. This information should be protected as confidential, market-sensitive information.</p>	<p>Through December 31, 2024</p>

DECLARATION OF MICHAEL A. HYAMS IN SUPPORT OF CONFIDENTIAL TREATMENT OF DATA AND INFORMATION CONTAINED IN CLEANPOWERSF'S ADVICE LETTER 23-E (DATED MARCH 17, 2022)
 ATTACHMENT A – TABLE OF CONFIDENTIAL INFORMATION

<p>Confidential Appendix E (CleanPowerSF's RA RFO Bid Information)</p> <ul style="list-style-type: none"> Entire Workbook 	<p>CCA and ESP Matrix §§ II.A (Detailed load forecasts (both year ahead and month ahead)); II.B (Supply data (both year ahead and month ahead)); III.B. (Total Peak Load Forecast (MW)); and III.D. (Total Peak Demand Load Forecast (MW)).</p> <p>General Order 66-D, specifically Government Code section 6254(k) and Evidence Code sections 1040 (regarding "official information") and 1060 (regarding "trade secrets"); and Government Code section 6255(a) (regarding the public interest exemption under the California Public Records Act)</p>	<p>The specified information from this Appendix corresponds to the listed CCA and ESP Confidentiality Matrix categories; it includes confidential and highly-sensitive market information. Disclosure of such valuable market information would enable any interested person to identify CleanPowerSF's procurement requirements and open RA position, the availability of RA supply in the market, and bid price information. Bid price information, in particular, is highly confidential and market-sensitive. If released, this information would allow market participants to severely compromise the capacity markets, and consequently, negatively impact the ability of CleanPowerSF to procure resource adequacy capacity on terms favorable to its ratepayers.</p> <p>In addition, release of this information would compromise the available markets for capacity, and allow dominant market participants to exercise market power and manipulate compliance with the Commission's RA program. As a consequence, there would be a severe negative impact on the ability of CleanPowerSF to negotiate and procure RA capacity on terms reasonable for its ratepayers. The public interest served by disclosing this information is clearly outweighed by the public interest in withholding such information from disclosure, given the sensitivity of the information and the potential harm that would be caused by its disclosure. This information should be protected as confidential, market-sensitive information.</p>	<p>Through December 31, 2024</p>
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DECLARATION OF MICHAEL A. HYAMS IN SUPPORT OF CONFIDENTIAL TREATMENT OF DATA AND INFORMATION
CONTAINED IN CLEANPOWERSF’S ADVICE LETTER 23-E (DATED MARCH 17, 2022)
ATTACHMENT A – TABLE OF CONFIDENTIAL INFORMATION

<p>Confidential Appendix F (CleanPowerSF’s Participation in IOU RA RFO Bid Information)</p> <ul style="list-style-type: none"> • PG&E RA and Import Energy E-Solicitation <ul style="list-style-type: none"> ○ Entire workbook • SCE Q12022 eSolicitation <ul style="list-style-type: none"> ○ Entire workbook 	<p>CCA and ESP Matrix §§ II.A (Detailed load forecasts (both year ahead and month ahead)); II.B (Supply data (both year ahead and month ahead)); III.B. (Total Peak Load Forecast (MW)); and III.D. (Total Peak Demand Load Forecast (MW)).</p> <p>General Order 66-D, specifically Government Code section 6254(k) and Evidence Code sections 1040 (regarding “official information”) and 1060 (regarding “trade secrets”); and Government Code section 6255(a) (regarding the public interest exemption under the California Public Records Act)</p>	<p>The specified information from this Appendix corresponds to the listed CCA and ESP Confidentiality Matrix categories; it includes confidential and highly-sensitive market information. Disclosure of such valuable market information would enable any interested person to identify CleanPowerSF’s procurement requirements and open RA position, the availability of RA supply in the market, and bid price information. Bid price information, in particular, is highly confidential and market-sensitive. If released, this information would allow market participants to severely compromise the capacity markets, and consequently, negatively impact the ability of CleanPowerSF to procure resource adequacy capacity on terms favorable to its ratepayers.</p> <p>In addition, release of this information would compromise the available markets for capacity, and allow dominant market participants to exercise market power and manipulate compliance with the Commission’s RA program. As a consequence, there would be a severe negative impact on the ability of CleanPowerSF to negotiate and procure RA capacity on terms reasonable for its ratepayers. The public interest served by disclosing this information is clearly outweighed by the public interest in withholding such information from disclosure, given the sensitivity of the information and the potential harm that would be caused by its disclosure. This information should be protected as confidential, market-sensitive information.</p>	<p>Through December 31, 2024</p>
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DECLARATION OF MICHAEL A. HYAMS IN SUPPORT OF CONFIDENTIAL TREATMENT OF DATA AND INFORMATION CONTAINED IN CLEANPOWERSF'S ADVICE LETTER 23-E (DATED MARCH 17, 2022)
 ATTACHMENT A – TABLE OF CONFIDENTIAL INFORMATION

<p>Declaration of Erin B. Mulberg in Support of CleanPowerSF's Advice Letter 23-E</p> <p>Entire declaration (describes CleanPowerSF compliance efforts and compliance)</p>	<p>CCA and ESP Matrix §§ II.A (Detailed load forecasts (both year ahead and month ahead)); II.B (Supply data (both year ahead and month ahead)); III.B. (Total Peak Load Forecast (MW)); and III.D. (Total Peak Demand Load Forecast (MW)).</p> <p>General Order 66-D, specifically Government Code section 6254(k) and Evidence Code sections 1040 (regarding "official information") and 1060 (regarding "trade secrets"); and Government Code section 6255(a) (regarding the public interest exemption under the California Public Records Act)</p>	<p>The specified information from this Declaration corresponds to the listed CCA and ESP Confidentiality Matrix categories; it includes confidential and highly-sensitive market information. Disclosure of such valuable market information would enable any interested person to identify CleanPowerSF's procurement requirements and open RA position, the availability of RA supply in the market, and bid price information. Bid price information, in particular, is highly confidential and market-sensitive. If released, this information would allow market participants to severely compromise the capacity markets, and consequently, negatively impact the ability of CleanPowerSF to procure resource adequacy capacity on terms favorable to its ratepayers.</p> <p>In addition, release of this information would compromise the available markets for capacity, and allow dominant market participants to exercise market power and manipulate compliance with the Commission's RA program. As a consequence, there would be a severe negative impact on the ability of CleanPowerSF to negotiate and procure RA capacity on terms reasonable for its ratepayers. The public interest served by disclosing this information is clearly outweighed by the public interest in withholding such information from disclosure, given the sensitivity of the information and the potential harm that would be caused by its disclosure. This information should be protected as confidential, market-sensitive information.</p>	<p>Through December 31, 2024</p>
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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations.	Rulemaking 19-11-009 (Filed: November 07, 2019)
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CERTIFICATE OF SERVICE

I, Paula Fernandez, declare that I am an employee of the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City and County of San Francisco, Office of the City Attorney, 1 Dr. Carlton B. Goodlett Place, Room 234, San Francisco, CA 94102, telephone (415) 554-4700.

On March 17, 2022, I served **CleanPowerSF Advice Letter 23-E-CleanPowerSF Demonstration of Sufficient Collective Resource Adequacy Procurement Across the Six Disaggregated PG&E Local Capacity Areas for May 2022 Month Ahead or Alternatively, Approval of CleanPowerSF's Request for Waiver of Penalties for Certain Local Resource Adequacy Deficiencies in its May 2022 Month Ahead Filing (PUBLIC VERSION); and Declaration of Michael A. Hyams in Support of Confidential Treatment of Data And Information Contained in CleanpowerSF's Advice Letter 23-E** via electronic mail, on all parties in Proceeding No. **R.19-11-009**.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on **March 17, 2022** in San Francisco, California.

/s/ Paula Fernandez
Paula Fernandez