



Request for Offers for Long-term Renewable Energy + Storage

San José Clean Energy, or SJCE, is the City of San José's new electricity supplier—charting our path to a greener future. We are the Community Energy Department of the City of San José, dedicated to creating a more sustainable future for our customers and our community. The San José City Council unanimously voted to create SJCE in May 2017 and we began serving residents and businesses in February 2019.

Peninsula Clean Energy is San Mateo County's not-for-profit, locally controlled electricity provider. Peninsula Clean Energy was launched collaboratively in 2016 by the County of San Mateo and all twenty of its municipalities. We are a joint powers authority that provides all electric customers in San Mateo County with cleaner electricity at lower rates than those charged by Pacific Gas & Electric Company. The organization is governed by a Board of Directors comprised of elected officials representing all cities, towns and the Board of Supervisors in San Mateo County, and is supported by a staff of expert professionals.

Launch Date: July 15, 2020

Offers Due: Friday, September 4, 2020 at 5:00 PM PPT

RFO Website: <https://www.peninsulacleanenergy.com/rfo-long-term-renewable>

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1. Request for Offers Overview

San Jose Clean Energy (“SJCE”) and Peninsula Clean Energy (“the Joint CCAs”) are soliciting competitive proposals for the purchase of long-term (≥ 10 year) renewable energy or renewable energy plus storage contracts to fulfill each organization’s energy goals. We are not considering stand-alone storage offers as part of this solicitation and will issue a separate solicitation in the future for storage only offers.

The goal of this 2020 Request for Offers for Long-term Renewable Energy + Storage (“RFO”) is to provide a competitive, objectively administered opportunity for suppliers to propose projects to fulfill the Joint CCAs desire for long-term renewable resources that have a commercial on-line date of December 31, 2024 or sooner. Specifically, the Joint CCAs plan to enter into one or more long-term power purchase and sale agreements (“PPAs”) to purchase energy from Portfolio Content Category 1¹ (“PCC1”) eligible renewable resources (“ERRs”).² The Joint CCAs intend to collect all relevant Energy, Environmental Attributes, Resource Adequacy, and Ancillary Services benefits from the Projects, as applicable. The Joint CCAs are targeting to contract for 1,000,000 MWh total through this solicitation. The Joint CCAs will consider offers from all eligible resources, but in consideration of current economic trends, the Joint CCAs do not anticipate stand-alone solar projects to be cost competitive. Additionally, the Joint CCAs are interested in a variety of resources, including sundown clean energy, which is renewable energy delivered during non-solar generating hours. Please see section 3 below for additional information.

The Joint CCAs intend to shortlist and contract individually with Bidders. To the extent the Joint CCAs are interested in sharing volume from one project, the Joint CCAs will determine the volumes between themselves and intend to work together on negotiating a PPA, but ultimately each CCA is a separate entity with an individual governing board and will need to meet the needs and requirements of their organization.

About San Jose Clean Energy

In 2017, the City of San José established the Community Energy Department to administer San José Clean Energy (SJCE), San José’s Community Choice Energy provider. In February 2019, SJCE launched electricity generation service to residents and businesses. Today it serves more than 328,000 customers and has a peak load of almost 1 GW. SJCE is responsible for purchasing over 5,000 GWh of electricity annually and has an annual operating budget of over \$300 million.

SJCE is driven to provide clean, renewable energy at competitive rates to help the city meet its [Climate Smart San José](#) goals and provide local benefits. In 2020, SJCE’s default energy service GreenSource is 86% carbon-free and 45% renewable at rates 1% below PG&E, adding up to over \$3 million in community-wide savings annually. Customers can also choose to upgrade to SJCE’s

¹ See Section 399.16(b)(1) of the California Public Utilities Code and CPUC Decision 11-12-052.

² See Public Utilities Code Section 399.12, Public Resources Code Section 25741, and the California Energy Commission’s “Renewables Portfolio Standard (RPS) Eligibility Guidebook,” available at: <http://www.energy.ca.gov/portfolio/index.html>.

TotalGreen service to receive 100% renewable energy. For more information about SJCE, please visit: www.sanjosecleanenergy.org

About Peninsula Clean Energy

Peninsula Clean Energy, a community choice energy aggregator, is San Mateo County's official electricity provider. Peninsula Clean Energy plans for and secures commitments from a diverse portfolio of energy-generating resources to reliably serve the electric energy requirements of its customers over the near-, mid-, and long-term planning horizons. Peninsula Clean Energy's programs include advancing the adoption of electric vehicles and transitioning building fossil fuel uses to low-carbon electricity. For more information on Peninsula Clean Energy, please go to www.peninsulacleanenergy.com.

In May 2019, Peninsula Clean Energy received an investment grade credit rating of Baa2 from Moody's and in April 2020, Peninsula Clean Energy received an investment grade credit rating of BBB+ from Fitch. As of December 31, 2019, Peninsula Clean Energy had an unaudited cash balance of \$175.4 million, of which \$162.4 million was unrestricted. The unrestricted cash balance represented 264 days of cash on hand, well in excess of Peninsula Clean Energy's Board updated policy requirement of 180 days. Peninsula Clean Energy's financial statements including its fiscal year 2018-2019 audited financials are available on Peninsula Clean Energy's website.

Peninsula Clean Energy currently provides electricity service to approximately 300,000 customer accounts. This represents a population of over 700,000 people with 3,600 GWh of clean electricity annually.

Acknowledgment of Terms

By participating in the Joint CCAs RFO process, a Bidder acknowledges that it has read, understands, and agrees to the terms and conditions set forth in these RFO Instructions, including all attachments. The Joint CCAs reserve the right to reject any offer that does not comply with the requirements identified herein. Furthermore, the Joint CCAs may, in their sole discretion and without notice, modify, suspend, or terminate the RFO without liability to any organization or individual. The RFO does not constitute an offer to buy or create an obligation for the Joint CCAs to enter into an agreement with any party, and neither of the Joint CCAs shall be bound by the terms of any offer until it has entered into a fully executed agreement.

With respect to SJCE, this procurement shall be conducted according to the guidelines set forth in the San José Clean Energy Risk Management.

2. RFO Process and Timeline

This RFO was released on Wednesday, July 15, 2020.

Communications

All RFO documents are available at the RFO website at <https://www.peninsulacleanenergy.com/rfo-long-term-renewable> . All announcements, updates and Q&As will be posted on the website.

Any communications regarding this RFO should be sent to PCESJCE2020RFO@peninsulacleanenergy.com. This email address will forward to the appropriate procurement contacts at each CCA including Phil Cornish for SJCE and Siobhan Doherty for Peninsula Clean Energy. Please only send questions and communications to the RFO email address and not to the individual contacts' email addresses. Emails sent to individual contacts and not to the RFO email may not be reviewed or responded to.

Webinar

The Joint CCAs will host an informational webinar on Wednesday, August 5, 2020 from 12 PM – 1:30 PM PPT. To register for the webinar, please send an email to PCESJCE2020RFO@peninsulacleanenergy.com. During the Webinar, the Joint CCAs intend to address questions submitted in advance of the Webinar by Friday, July 31 at 5 PM PPT. The Joint CCAs encourage Bidders to submit questions in advance of the Webinar to support a more efficient Webinar.

Submission and Posting of Q&A

Questions are due Monday, August 24, 2020 at 5 PM PPT. Bidders are encouraged to submit questions concerning the RFO. All questions must be submitted through the form posted here: <https://forms.gle/MipbQaswRS8aHXKCA>. Bidders are urged to submit RFP questions to the Joint CCAs as early as possible, in consideration of the proposal submission deadlines.

The Joint CCAs intend to post all questions submitted by Bidders before and after the Webinar, as well as responses to those questions in the form of an Addendum posted to the RFO website. Answers will be posted by ***Friday, August 28, 2020 at 12 PM PPT***. All addenda shall become part of this RFO. All questions will be posted anonymously to shield the identity of Bidders who posed the questions. The Joint CCAs' objective in posting questions and answers is to afford Bidders equal access to information potentially relevant to their proposals.

Bid Submittal

Bidders' Offers must be submitted by Friday, September 4, 2020, 5 PM PPT. Offers must include the required documents described below. All proposals must meet the requirements of the RFO to be considered. However, the Joint CCAs reserve the right to waive any deficiency of an offer.

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Only electronic submittals will be accepted via e-mail sent to PCESJCE2020RFO@peninsulacleanenergy.com. Please include "Joint CCA 2020 RFO offer from [Company Name]" in the subject line. Late proposals shall be rejected. This deadline is absolute, and proposals received after the due date and time shall not be considered.

The submission of a proposal shall be deemed a representation and certification by the Bidder that they have investigated all aspects of the RFO, that they are aware of the applicable facts pertaining to the RFO process, its procedures, and requirements, and that they have read and understood the RFO. No request for modification of the proposal shall be considered after its submission on grounds that Bidder was not fully informed as to any fact or condition.

Shortlist Selection Process

The Joint CCAs expect to notify short-listed Bidders by Friday, October 30, 2020. The Joint CCAs will evaluate all Offers per the evaluation criteria described below. The Joint CCAs will identify submitted Offers for short-listing, and then notify short-listed Bidders. Short-listed Bidders interested in moving forward to the negotiation phase will be required to provide additional documentation and bid security within two weeks of notification of short-listing. The Joint CCAs will negotiate contracts with short-listed Bidders. The Joint CCAs may execute contracts with selected Bidders at any time during the negotiation phase or may choose to execute none at all. Each of the Joint CCAs will enter into a separate agreement for its corresponding share of any project selected. The Joint CCAs may endeavor to negotiate individually or together as is most likely to provide for efficient negotiations.

Contracts with projects selected by Peninsula Clean Energy will need to be approved by the Peninsula Clean Energy Board of Directors at a public Board meeting prior to execution. This may require that a redacted version of the contract be made available publicly.

Contracts with projects selected by SJCE will need to be approved by the San José City Council prior to execution unless San José City Council has already authorized the Director of Community Energy or her designee to negotiate and execute such contracts.

Timeline

Date	Item
July 15, 2020	RFO Issuance and Q&A Open
July 31, 2020; 5 PM PPT	Deadline to submit Questions prior to Webinar
August 5, 2020; 12 PM – 1:30 PM PPT	Bidder Webinar to discuss RFO Process
August 24, 2020; 5 PM PPT	Deadline to submit Questions
August 28, 2020; 12 PM PPT	Final Q&A Addendum posted to RFO Website
September 4, 2020; 5 PM PPT	Deadline to submit RFO Proposals
October 30, 2020	Bidders notified of shortlist status
Q1 2021	Power Purchase Agreement and Awards

3. Compliant Submission Specifications

The Joint CCAs are inviting offers from renewable energy generating facilities and renewable energy generating facilities paired with storage capable of delivering renewable energy meeting the requirements for PCC1 renewable energy and all associated products such as resource adequacy. The Joint CCAs would prefer full deliverability but will consider energy only proposals. The Joint CCAs will consider offers from all eligible resources, but in consideration of current economic trends, the Joint CCAs do not anticipate stand-alone solar projects to be cost competitive. Additionally, the Joint CCAs are interested in a variety of resources, including sundown clean energy, which is renewable energy delivered during non-solar generating hours. Please see section 3 below for additional information.

The Joint CCAs require Bidders to submit offers for products with delivery terms of fifteen years. The Joint CCAs require terms be at least ten years and prefer shorter terms. Bidder should please note in the narrative whether they are open to PPA terms of ten years and any impact this may have on pricing. In addition, the Joint CCAs will consider favorably projects that include a bridge contract for PCC1 energy until the Project begins delivering.

Offers including paired energy storage systems are allowed but not required. Bidders submitting solar projects are highly encouraged to provide the ability to add storage as an option. The Joint CCAs desire the ability to control any co-located storage and generally prefer to act as the scheduling coordinator. Standalone storage offers will not be accepted via this solicitation.

PCC1 index plus offers will be accepted under this solicitation but Bidders should consider the value that this offer structure can provide to the Joint CCAs. Index plus offers will not be scored in the same way as renewable PPA offers since Index Plus offers do not include the benefit of resource adequacy or the ability to hedge energy. Submissions for this type of product may ignore the requirements that do not apply, e.g. site control, but should include a list of projects that the energy will be sourced from including location and status (i.e. in construction, operating, etc.).

Sundown Renewable Energy Product

Peninsula Clean Energy is interested in offers for renewable energy delivered during non-solar generating hours, which is called "Sundown Renewable Energy." Note that this product could include solar as the primary energy source but would then require long-duration storage (at least 8 hours) to qualify as Sundown Renewable Energy. Peninsula Clean Energy recognizes that Sundown Renewable Energy is may be more expensive than other renewable energy sources, and this category of product will be evaluated appropriately. The Offer Form has a field where submitters can identify their project as providing Sundown Clean Energy.

Number of Offers

Bidders may submit a maximum of one (1) offer per unique facility/location. A Bidder may submit a second offer for a facility only if they are providing a bid for a Sundown Renewable Energy Product. Otherwise, any Project variations should be noted in the narrative document. A Project variation may include, for example, different sized offers, different commercial operation dates ("CODs"), or different term lengths. The submitted offer should be the largest size and most

competitive offer that meets all compliance requirements. All projects will be evaluated with the assumption that smaller project sizes may be priced and negotiated during final shortlisting negotiations. Alternative configurations, durations, or pricing schemes may be submitted as descriptions within the narrative document but may not be evaluated or considered until the negotiations phase or at all.

Alternative Proposals

As an alternative to traditional take or pay approaches, with or without the ability to control co-located storage, the Joint CCAs welcome non-traditional high value solutions for meeting the unique load profile characteristics of each CCA and their respective needs to deliver renewable energy ideally to match load on a seasonal, monthly or hourly basis. Specifically, Peninsula Clean Energy's Board has set a goal to be 100% renewable to match load on an hourly basis.

Examples include the following:

- Delivery of power pursuant to a particular shape;
- Opportunities to shift solar power to more valuable hours; or
- The ability to shift power at will for a determined number of days.

The expected hourly load in calendar year 2023 for each CCA is available in Attachments 1a and 1b. When developing alternative proposals, Bidders should take into account each CCA's unique load profile as well as consideration of each CCA's currently executed contracts:

- SJCE (Attachment 1a)
- Peninsula Clean Energy (Attachment 1b)

Alternative Proposals do not count toward the limit of one offer per unique facility / location.

4. Eligibility Criteria

Location	Eligible renewable resources located within the Western Electricity Coordinating Council (“WECC”) with deliverability to the CAISO grid will be considered. The Joint CCAs will evaluate the potential for congestion between the project’s point of interconnection and the Joint CCAs’ service territories and will consider this as a part of the Project analysis. For local resource adequacy, we value diversity and are still assessing what value to give to local areas given the changing regulatory landscape.
Generating Capacity	Minimum ten (10) megawatt (“MW”) AC. Projects less than 10 MW but aggregated under one PPA for a total of 10 MW would be acceptable.
Initial Date of Delivery	Projects are required to have a guaranteed commercial operation date (“COD”) before the end of 2024, including all permitted extensions. Projects with further out CODs cannot be considered, even if they had a bridge offer to mitigate this. Existing projects are acceptable if the terms are attractive.
Annual Delivery Specifications	Maximum 750,000 MWh per year from any one project provided both of the Joint CCAs participate.
Term	Bidders should submit offers assuming a 15-year term. The Joint CCAs are open to longer or shorter terms (but ≥ 10 years) and other term lengths may be proposed and described as an offer variant.
Minimum Development Progress	To the extent that a proposed generating resource is not yet commercially operational, a Project must have achieved the following development milestones by the shortlisting date: 1) site control, and 2) a Phase 2 interconnection study or an executed interconnection agreement. Short-listed Bidders will be required to provide documentation substantiating these milestones within two weeks after short-listing. If a short-listed Bidder cannot provide this documentation, the Joint CCAs will rescind the short-list offer.
Product	For traditional take or pay offers, any purchase of capacity and energy made pursuant to this RFO will also include all associated Capacity, Energy, and Environmental Attributes/Renewable Energy Credits (RECs). For Alternative Proposals, please describe in your proposal what attributes are included in your offer.
Generation Facility Pricing	For traditional take or pay offers, the energy price shall include procurement of the energy commodity, all Green Attributes/Renewable Energy Credits related thereto, Capacity Attributes (if available), transmission charges to the delivery point, including but not limited to CAISO imbalance costs, fees and penalties associated with delivered energy volumes. Each submitted offer must specify both of the following:

	<ul style="list-style-type: none"> • A single, flat price for each MWh of electric energy delivered from the proposed resource in which Seller shall be financially and operationally responsible for delivery of all electric energy to the generator’s applicable pricing node. This energy price shall remain constant throughout the entire contract term and shall not be adjusted by periodic escalators or time of delivery adjustments. • A single, flat price for each MWh of electric energy delivered from the proposed resource in which Seller shall be financially and operationally responsible for delivery of all electric energy to the NP15 trading hub (or subject to a price adjustment reflecting such delivery). This energy price shall remain constant throughout the entire contract term and shall not be adjusted by periodic escalators or time of delivery adjustments.
Storage Pricing	If offer includes co-located storage, the price for storage should be in \$ per kW-month.
Scheduling Coordinator	<p>For traditional contracts, the Joint CCAs strongly prefer to control the project and prefer to act as the project’s scheduling coordinator. The term sheet attached to this RFO assumes that the Joint CCAs will act as scheduling coordinator.</p> <p>The Joint CCAs will consider other arrangements if Bidder has a preference otherwise. If the project requires the Bidder / Seller to serve as the SC or if the Bidder prefers for the Seller to act as SC, the offer should provide an explanation of this and describe any price impacts for allowing Seller to act as SC in the narrative document.</p> <p>For Alternative Proposals, the Joint CCAs are open to different scheduling coordinator arrangements and the proposal should include a description of which party will act as SC.</p>
Ownership	All projects will be owned by the Bidder with the Joint CCAs contracting for the resource’s output for the duration of the contract term. The Joint CCAs are also interested in buyout options.
Seller Security Requirements	<p>Proposed pricing should incorporate the following security requirements.</p> <ul style="list-style-type: none"> • Following PPA execution: Development Security of \$60/kW of Guaranteed Capacity for the generation resources and \$90/kW for storage resources. This can be provided as cash or Letter of Credit. • Upon Commercial Operation: Performance Security equivalent to one year of expected project revenues. This can be provided as cash or Letter of Credit (PCE and SJCE) or Parent Guaranty (SJCE only).

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Curtailment Cap	For traditional take or pay structures, the attached term sheet calls for 50 hours per contract year of uncompensated buyer curtailment. The Joint CCAs will evaluate your offer as including this term. Additionally, the Joint CCAs request Seller to itemize the cost impact, if any, of the Curtailment Cap on PPA Price in the narrative.
Guaranteed Energy Production	One hundred sixty percent (160%) of proposed estimated annual energy production in each 2-year performance measurement period.
Transfer of Environmental Attributes/Renewable Energy Certificates	As part of the proposed transaction associated with any renewable energy product, all Environmental Attributes/Renewable Energy Certificates must be tendered and transferred to the Joint CCAs via the Western Renewable Energy Generation Information System ("WREGIS"), or its successor, without any additional costs or conditions to the Joint CCAs. As appropriate, any e-tags associated with delivered product volumes shall be matched to associated renewable energy certificates within the WREGIS system before transferring such certificates to the Joint CCAs.
Labor Requirements	Must comply with prevailing wage laws to be considered by the Joint CCAs. To be considered by Peninsula Clean Energy, must comply with Peninsula Clean Energy's Inclusive and Sustainable Workforce Policy. ³
Storage Operation	Storage components of generation + storage resources will only be charged by the generation resource they are directly connected to (no grid charging) for the duration of the ITC recapture period. Storage resources may be grid-charged after the ITC recapture period. Storage resources are expected to operate at approximately 200 cycles ⁴ /year for 4-hour duration batteries and 365 cycles/year for 2-hour duration batteries. Bidders may specify a cost for additional cycles beyond those identified. Storage resources must have no limit to the numbers of times per day that they may be charged or discharged.
Station Use	Seller will be responsible for Station Use.
Storage Maintenance	Seller is expected to maintain operation of the facility at full nameplate capacity throughout the contract term. Any maintenance or replacement required to maintain nameplate operation of the facility is the responsibility of the Bidder.
Operational Efficiency	Round-trip efficiency of the storage resource must remain above 60% throughout the project lifetime.

³ <https://www.peninsulacleanenergy.com/wp-content/uploads/2018/10/Policy-10-Inclusive-and-Sustainable-Workforce-revised-10-25-18.pdf>

⁴ A "full cycle" is defined as the net discharge of the full battery energy capacity plus the net charge of the full battery energy capacity. For example, if a 400 MWh battery discharges 600 MWh and charges 600 MWh over some period of time, that would be considered 1.5 full cycles.

5. Required Information

Proposals should be submitted by the deadline via e-mail to PCESJCE2020RFO@peninsulacleanenergy.com. Please include "Joint CCA 2020 RFO offer from [Company Name]" in the subject line.

The following documents are required for each Project:

1. Completed Offer Form (Attachment 2)
2. Term Sheet (Attachment 3) redline
3. Narrative
4. Geospatial Footprint

The following documents are required for each RFO Bidder wishing to claim this status for SJCE's evaluation only:

1. *Optional:* Local and Small Business Forms

The following documents are required for each RFO Bidder for Peninsula Clean Energy's evaluation only:

The first two documents are required by Peninsula Clean Energy for all Bidders. The third document is optional. Additional details are included in the sections below.

1. Compliance with Peninsula Clean Energy's Sustainable Workforce Policy
2. Compliance with Peninsula Clean Energy's Ethical Vendor Standards
3. *Optional:* Diversity Questionnaire

Offer Form

The excel file Offer Form (Attachment 2) is the primary source of data for evaluating submissions. ***This Offer Form template is mandatory and must be fully completed for a submission to be considered compliant.***

This form can be downloaded from the RFO web site. If your project requires the construction of a new substation, please identify the nearest pNode and note that it is a proxy. Nodes must be spelled exactly as they are listed in OASIS: <http://oasis.caiso.com/mrioasis/default.do?tiny=aeQdVQ>. You must submit the pricing at the pNode and NP15.

The Offer Form (Attachment 2) template contains the following sections, and a guide for which sheets must be completed is provided on the instructions sheet in the templates. All yellow fields in the sheets relevant to the proposed project should be fully completed, utilizing the drop-down lists when provided.

1. **Participant & Project Info:** these values provide summary information for the project
2. **Intermittent RE – Hourly:** these values will be used for quantitative modeling of intermittent renewable generation resources, whether standalone or combined with storage
3.
 - a. **RE+Storage Hourly:** these values will be used for quantitative modeling of combined RPS+storage resources
 - b. **Storage Operation:** these values will be used for detailed modeling of the storage component of RPS+storage resources
4.
 - a. **Firm RE – Hourly:** these values will be used for quantitative modeling of firm renewable generation resources, whether standalone or combined with storage
 - b. **Firm RE – Operation:** these values will be used for detailed modeling of firm renewable generation resources, whether standalone or combined with storage
5. **Qualitative Assessment:** this questionnaire gathers information for qualitative selection criteria.
6. **Development Risk:** these questions are intended to assess potential project development risk.

Term Sheet Redline

Bidders are required to provide a full redline of the term sheet, which is attached to the RFO as Attachment 3. Proposed pricing should assume the terms in the form term sheet. The Joint CCAs are accepting redlines and will consider redlines but may or may not ultimately accept changes. If changes to specific terms would positively impact pricing to the Joint CCAs, please note this in the term sheet redline including the magnitude of the impact.

Narrative

Bidders should submit a brief narrative including a cover letter, a description of the Bidder's experience, and an explanation of the proposed project's characteristics and development status. This narrative will be primarily used as a reference for specific project details that are not fully captured in the Offer Form templates and for further assessment of shortlisted proposals. The contents of the narrative will not be used as part of initial quantitative or qualitative project evaluation but is mandatory for promotion to the final shortlist. ***The project narrative should be submitted as a pdf document.***

A Project Narrative should include the following sections in the order listed below:

1. Cover Letter: Describe the offer(s), including the relationships among offers, if multiple Projects are submitted or multiple offers are presented for the same Project. This letter should at a high level describe the steps required to develop, deliver, and operate the project (s).
2. Bidder Experience and Qualifications: Describe developer experience, particularly as it relates to previously completed projects of a similar scope and scale including the following:
 - A document describing the roles, experience and qualifications of all project team members including the following:
 - Years of experience developing similar projects
 - Number, type, and size of projects
 - Experience financing projects
 - Parent company
 - Organization chart showing project personnel and their role within the development company; and the relationship between the project owner, developer, financing entity, owner upon operation, and operator. If you are submitting multiple projects, this may require multiple organization charts.
 - Financial strength of RFO Bidder.
3. Project Summary: Brief summary of project including location, sizing, and any relevant high-level details (1-2 paragraphs)
4. Project Details Summary: Table including the project name, location, technology, capacity, duration for storage projects, COD and pricing.
5. Detailed Site Description: Detailed description of the current land use of the project footprint, description of status of site control and a detailed site map showing nearest cross streets, latitude and longitude, any gen-tie required.
6. Interconnection Status: Describe the project's proposed interconnection, including proximity to transmission interconnection, any new interconnection facilities or Network Upgrades that would need to be built, provide queue position, status of completed studies (System Impact Study, Facilities Study, Phase 1 Study, Phase 2 Study, CAISO Full Deliverability Study), Interconnection level of the proposed generator (Distribution or Transmission), Scheduled Commercial Operation Date and progress related to any applicable agreement.
7. Milestone schedule: At minimum, include the following:
 - [date] – receipt of CEC pre-certification
 - [date] – receipt of Phase 2 interconnection study
 - [date] – execution of Interconnection Agreement
 - [date] – procurement of major equipment
 - [date] – obtain federal and state discretionary permits

- [date] – Guaranteed Construction Start Date
 - [date] – obtain Full Capacity Deliverability Status, if applicable
 - [date] – Guaranteed Commercial Operation Date
8. Financing plan
9. Environmental permitting status: List all known environmental issues on the project site and description of permit status including permits required for construction and operation (Conditional Use Permit, Notice of Determination, Environmental Impact Report). Description of other required environmental information including the following:
- reconnaissance level surveys (e.g. biological, archaeological) and tribal consultation completed and no occupied habitat for endangered species or cultural resources identified
 - CEQA/NEPA completed or not required
 - Wildlife permits obtained or none required. Include written opinion from CA Department of Fish and Wildlife.
 - Land use approvals granted
10. Project risk- Provide a brief overview of project risks, particularly related to status of:
- Project interconnection
 - Site control and permitting
 - Environmental zoning, studies, and permitting
 - Financing
11. Community Benefits: Describe what benefits the project provides the community in which it is located, including resiliency.
12. Offer variants: Description of additional variants the bidder would like the Joint CCAs to consider.
- a. If the bidder would like to propose offer variants beyond the one proposed in the Offer Form Template, these variants may be described in text in this section. These additional variants may not be submitted as Offer Form templates and will not be evaluated in the quantitative evaluation phase but may be assessed for additive value if the initial proposal is chosen for shortlisting consideration.
 - b. Alternative offers that might be proposed in this section include variant technologies, distinct CODs, capabilities or any other arrangements that may provide additional value.
13. Alternative pricing schemes/dispatching capabilities: any offers with an innovative structure such as 7x16 or 12x24 firm delivery

Geospatial Footprint File

All projects are required to submit an ArcGIS file of the relevant geospatial footprint of the project. Please see Attachment 4: Instructions for Geospatial Footprint for details on how to create the appropriate ArcGIS file.

Local and Small Business Forms (for SJCE Evaluation Only)

If applicable, local and/or small business forms (Attachment 5).

Compliance with Peninsula Clean Energy's Sustainable Workforce Policy (for Peninsula Clean Energy's Evaluation Only)

Peninsula Clean Energy requires all Bidders to submit the following information. Peninsula Clean Energy is committed to engaging a skilled and trained workforce and targeted hires. At a minimum, projects must comply with Peninsula Clean Energy's Sustainable Workforce Policy.⁵

Bidders shall include detailed information regarding past, current and/or planned efforts by the project developer and their contractors, as well as specific information regarding the proposed project, to:

- Employ workers and use businesses from the PCE service territory.
- Employ properly licensed (A, B, C10, C7, C46) contractors and California Certified electricians.
- Utilize multi-trade project labor agreements on the proposed project or any prior project developments.
- Utilize local apprentices, particularly graduates of local pre-apprenticeship programs.
- Pay workers the correct prevailing wage rates for each craft, classification and type of work performed.
- Display a poster at jobsites informing workers of prevailing wage requirements.
- Provide workers compensation coverage to on-site workers.
- Support and use State of California approved apprenticeship programs.

Relevant information submitted by bidders will be used to evaluate potential workforce impacts of proposed projects with the goal of promoting fair compensation, fair worker treatment, multi-trade collaboration, and support of the existing wage base in local communities where contracted projects will be located.

Compliance with Peninsula Clean Energy's Ethical Vendors Standard⁶ (for Peninsula Clean Energy's Evaluation Only)

Peninsula Clean Energy requires all Bidders to submit the following information. Peninsula Clean Energy is committed to the highest standards of responsible behavior and integrity in all of its business relationships. Peninsula Clean Energy will consider a company's business practices,

⁵ Peninsula Clean Energy's full Sustainable Workforce Policy is available here:

<https://www.peninsulacleanenergy.com/wp-content/uploads/2018/10/Policy-10-Inclusive-and-Sustainable-Workforce-revised-10-25-18.pdf>

⁶ Peninsula Clean Energy's Ethical Vendor Standards can be found here: <https://www.peninsulacleanenergy.com/wp-content/uploads/2017/01/PCE-Policy-9-final.pdf>.

environmental track record, and commitment to sustainability in its procurement decisions. Please describe your company's business practices, environmental track record, and commitment to sustainability.

Optional: Diversity Questionnaire (for Peninsula Clean Energy's Data Collection Only)

Peninsula Clean Energy asks Bidders to voluntarily complete the attached Supplier Diversity Questionnaire (Attachment 6) disclosing their GO 156 certification status as well as their efforts to work with diverse business enterprises, including those owned or operated by women (WBE), minorities (MBE), disabled veterans (DVBE), and lesbian, gay, bisexual, or transgender people (LGBTBE).

As a public agency and consistent with state law, Peninsula Clean Energy will not use any such information provided on the Diversity Questionnaire in any part of its decision-making or selection process. Rather, Peninsula Clean Energy will use the information provided on the Diversity Questionnaire solely to help evaluate how well it is conforming to its own policies and goals. For additional information, please see Section 10 below. ***Pursuant to California Proposition 209, Peninsula Clean Energy does not give preferential treatment based on race, sex, color, ethnicity, or national origin.***

Please do not include extra documentation not listed here. Bidders shall provide such additional information as reasonably requested by the Joint CCAs.

6. Short-listed Offer Required Documents

Within 2 weeks of short-list notification, the following items or documents must be submitted to the Joint CCAs:

- A signed Exclusivity Agreement for each CCA (Attachment 7) and Shortlist Deposit (\$3,000/MW of generation and storage capacity, if applicable).
- The most recent Phase 2 Interconnection Study and Generator Interconnection Agreement (GIA), if available.
- Demonstration of site control.
- Credit rating and financial statements.

Shortlist Deposit

The Shortlist Deposit is intended to secure the obligations of any shortlisted Bidder(s) during the negotiating period and to ensure that each offer has been carefully considered. Bidders will submit separate shortlist Deposits to each of the Joint CCAs dependent on the volume shortlisted by each respective CCA. The Shortlist Deposit must be in the form of either a cash deposit or a Letter of Credit. "Letter of Credit" means an irrevocable standby letter of credit, in a form reasonably acceptable to the respective CCA, issued either by (i) a U.S. commercial bank, or (ii) a U.S. branch of a foreign commercial bank that meets the following conditions: (A) it has sufficient assets in the U.S. as determined by the relevant CCA, and (B) it is acceptable to the relevant CCA in its sole discretion. The issuing bank must have a credit rating of at least A- from S&P or A3 from Moody's, with a stable outlook designation. In the event the issuer is rated by both rating agencies and the ratings are not equivalent then the lower rating will apply. All costs of the Letter of Credit shall be borne by Bidder.

Please refer to the Exclusivity Agreement for additional details regarding the Exclusivity Period and return of the Shortlist Deposit.

Credit Rating and Financial Statements

Based on availability, counterparties must submit a financial statement for the most recent financial quarter, as well as audited financial statements for the most recent two fiscal years, or the period of existence of the counterparty, if shorter. If audited financial statements are not available, financial statements, as described below, should be submitted, signed and attested to by an officer of the counterparty as a fair representation of the financial condition in accordance with generally accepted accounting principles. The information should include, but is not limited to, the following:

If publicly traded:

- a. Annual and quarterly reports on Form 10-K and Form 10-Q, respectively
- b. Form 6-K and 8-K, if filed during the last period

If privately held or governmentally owned:

- a. Management's Discussion & Analysis (if available)
- b. Report of Independent Accountants (if available)

- c. Financial Statements, including:
 - i. Balance Sheet
 - ii. Income Statement
 - iii. Statement of Cash Flows
 - iv. Statement of Stockholder's Equity (privately held only)
- d. Notes to Financial Statements

Financial statements should be sent to PCESJCE2020RFO@peninsulacleanenergy.com. If the Bidder requires a Non-Disclosure Agreement (NDA) in order to share that information, Bidder will execute an NDA with PCE, or in the case of the City of San José, directly with the City's Finance Department. More instructions will be shared upon shortlisting.

7. Evaluation Criteria

Proposals will be reviewed to determine if all required documentation was included with the proposal submittal as described above (Required Information). Proposals that fail to contain the required documents may be disqualified from further consideration.

The Joint CCAs’ staff and consultants will evaluate proposal submissions according to both quantitative and qualitative evaluation factors described below. The Joint CCAs reserve the right to rely on information from sources other than the information provided by the Bidders. The Joint CCAs’ staff may also seek written clarification from any or all proposers to better understand and evaluate the proposal. This process may not be used as an opportunity to submit missing documentation or to make substantive revisions to the original proposal.

The most advantageous quote shall be determined based on the best value to the Joint CCAs. Relevant factors to evaluate value include but may not be limited to: life cycle costs; cash-flow considerations; concentration risk; maintenance costs; operating efficiency; quality; financial strength, capabilities and/or expertise of the bidder; contract terms including collateral terms; adherence to applicable CCA policies.

Evaluation Criteria	SJCE Points	Peninsula Clean Energy Points
Value (energy, attributes, capacity) ⁷	40	40
Project Viability	10	15
Environmental impacts	5	5
Project team experience	10	10
Redline to Term Sheet	20	15
Impact on DACs	2	5
Project Location	2	5
Local Business Enterprise	5	N/A
Small Business Enterprise	5	N/A
Workforce Development	N/A	Pass / Fail
Ethical Vendors Standard	N/A	5
Total	100	100

The Joint CCAs will evaluate each Offer against these criteria and select a subset of Offers to create a shortlist and move to the negotiation phase. While the Joint CCAs will work together to evaluate Offers, each CCA will create its own shortlist. If both of the Joint CCAs are interested in the same project, they will agree on how to divide up the volume and will communicate that to the Bidder in the shortlist notification. In addition, throughout the negotiation process, as discussed below,

⁷ Please refer to the Quantitative Evaluation Criteria section for additional detail.

the Joint CCAs will continue to evaluate a Bidder's fit and each Offer's fit with the Joint CCAs' goals and objectives.

During the first stage, the Joint CCAs will rely to a large extent on representations made by Bidders, as specified in the Bidder's submitted Offer Form (Attachment 2).

The Joint CCAs encourage Bidders to also describe community investments they intend to make in the San José and San Mateo County areas should they be awarded. This will not be scored under the evaluation criteria.

Quantitative Evaluation Criteria

All projects will be assessed for the project's economic value including energy, environmental attributes, and resource adequacy (net of curtailment and degradation), contract cost, and contract term. Projects will be dispatched across all relevant DA, RT, and ancillary markets and assessed for market performance against the relevant project Pnode. Pnode prices will be generated using modeling that accounts for changes in regional fundamentals (congestion risk, depression of mid-day prices due to solar generation, storage, etc.) over time. This analysis will provide an estimate of energy value for each project, which along with the \$/MWh PPA cost and, if relevant, \$/kW-month capacity cost submitted in the proposal will be used to calculate an overall value for each project.

Qualitative Evaluation Criteria

Projects will also be assessed according to the qualitative criteria outlined below.

- Project viability and development risk:
 - Project status regarding interconnection, site control, permits
 - Technology viability (no research, development, or demonstration projects)
 - Financial stability of project owner/developer
 - Approach/discussion on EPC contracting
- Environmental impacts and related mitigation requirements: The Joint CCAs are committed to being environmental leaders and will evaluate whether projects deliver multiple benefits for air, water, and nature and avoid impacts to important lands, species, and waters. The Joint CCAs will also assess whether projects are located in areas zoned for renewable energy development or in high-conflict areas.
- Project team experience
- Redline to Term Sheet: Material terms that the Bidder requires as a condition of the offer (see Attachment 3)
- Disadvantaged Communities⁸ - The Joint CCAs value projects that are located within DACs, can demonstrate DAC workforce and community development benefits, and have conducted outreach to DAC communities.
- Project Location – The Joint CCAs prefers projects located within California, particularly projects located within or close to San Mateo and Santa Clara counties.

For SJCE's evaluation only:

⁸ Disadvantaged Community means in or within half a mile of a [CalEnviroscreen](#) census tract in the 75th percentile or higher.

- Local business and/or Small Business (see Attachment 5)

For Peninsula Clean Energy's evaluation only:

- Workforce Development
 - Relevant information submitted by proposers will be used to evaluate potential workforce impacts of proposed projects with the goal of promoting fair compensation, fair worker treatment, multi-trade collaboration, and support of the existing wage base in local communities where contracted projects will be located.
- Compliance with Peninsula Clean Energy's Ethical Vendors Standard:
 - Peninsula Clean Energy will consider a company's business practices, environmental track record, and commitment to sustainability in its procurement decisions.

8. Seller Credit Requirements

Following shortlist selection notification, the selected Bidder(s) will be required to execute an Exclusivity Agreement and submit a Shortlist Deposit of \$3,000/MW of proposed generation (and storage, if applicable) project capacity for each shortlisted project within two weeks of such notification. Letter of credit, checks, or wire transfer will be accepted. More detailed instructions will be provided to shortlist candidates when the time comes. For further details, please see Exclusivity Agreement (Attachment 7).

The following performance assurance will be required from Seller following PPA execution. Seller is solely responsible for the cost of providing this performance assurance and this should be included in the price offered to the Joint CCAs.

- **Following PPA execution:** Development Security of \$60/kW of Guaranteed Capacity for the Generating Facility and \$90/kW for storage resources. This can be provided as cash or Letter of Credit.
- **Upon Commercial Operation:** Performance Security equivalent to one year of expected project revenues. This can be provided as cash or Letter of Credit (PCE and SJCE), or acceptable guaranty (SJCE only).

9. Buyer Security

The Joint CCAs do not intend to provide collateral or performance security in connection with any PPAs that they may execute in connection with this RFO. By submitting an offer through this RFO, Bidder acknowledges and accepts that the Joint CCAs do not intend to provide collateral or performance security in connection with any PPA, and no such offer submitted will be subject to a requirement that the Joint CCAs post collateral or security. SJCE intends to pursue a credit rating once it has two years of operations. No offer through this RFO shall be dependent on SJCE acquiring a credit rating.

10. **Optional: Supplier Diversity (for Peninsula Clean Energy Only)**

Consistent with its strategic goals, Peninsula Clean Energy has a strong commitment to foster a work environment that espouses sustainable business practices and cultivates a culture of innovation, diversity, transparency, integrity, and commitment to the organization's mission and the communities it serves. As part of that goal, Peninsula Clean Energy strives to ensure its use of vendors and suppliers who share its commitment to sustainable business and inclusionary practices.

To help ensure an inclusive set of vendors and suppliers, Peninsula Clean Energy's policy requires it to:

1. Strive to use local businesses and provide fair compensation in the purchase of services and supplies;
2. Proactively seek services from local businesses and from businesses that have been Green Business certified and/or are taking steps to protect the environment; and
3. Engage in efforts to reach diverse communities to ensure an inclusive pool of potential suppliers.

General Order 156 (GO 156) is a California Public Utilities Commission ruling that requires utility entities to procure at least 21.5% of their contracts with majority women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises' (WMDVLGBTBEs) in all categories. Qualified businesses become GO 156 Certified through the CPUC and are then added to the GO 156 Clearinghouse database. The CPUC Clearinghouse can be found here: www.thesupplierclearinghouse.com.

While PCE is not legally-required to comply with GO 156, Peninsula Clean Energy's policies and commitment to diversity are consistent with the principles of GO 156, and, therefore, Bidders to this RFP are asked to voluntarily disclose their GO 156 certification status as well as their efforts to work with diverse business enterprises, including those owned or operated by women (WBE), minorities (MBE), disabled veterans (DVBE), and lesbian, gay, bisexual, or transgender people (LGBTBE).

As a public agency and consistent with state law, Peninsula Clean Energy will not use any information provided on the Diversity Questionnaire in any part of its decision-making or selection process. Rather, Peninsula Clean Energy will use the information provided on the Diversity Questionnaire solely to help evaluate how well it is conforming to its own policies and goals.

Pursuant to California Proposition 209, Peninsula Clean Energy does not give preferential treatment based on race, sex, color, ethnicity, or national origin.

11. Protest

If an unsuccessful proposer wants to dispute an award or award recommendation, a protest must be submitted in writing for SJCE to the Director of Community Energy, Lori Mitchell and for Peninsula Clean Energy to the Chief Executive Officer, Janis Pepper no later than ten (10) calendar days after notice that the proposer was unsuccessful, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that material provision in this RFO is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The addresses for submitting protests is:

Attention: Lori Mitchell, Director
City of San José, Department of Community Energy
200 East Santa Clara Street, 14th Floor
San José, CA 95113

Attention: Janis Pepper, CEO
Peninsula Clean Energy Authority
2075 Woodside Road
Redwood City, CA 94061

Please submit electronic versions of any protest to Lori Mitchell at protestSJCE@sanjosecleanenergy.org and to Janis Pepper at procurement@peninsulacleanenergy.com.

12. Bidder Representations

By submitting a bid, Bidder agrees to be bound by the conditions of the RFO Protocol, and makes the following representations, warranties, and covenants to the Joint CCAs, which representations, warranties, and covenants will be deemed to be incorporated in their entirety into each of Bidder's submittals and are deemed to be material to the Joint CCAs' consideration of the proposals:

1. Bidder agrees that the Joint CCAs are not liable to any Bidder or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this request for submittals and that Bidder has no legal recourse against the Joint CCAs, its Members, the Joint CCAs directors, officers, employees, and agents for rejection of their submittal(s).
2. Bidder acknowledges that it has had the opportunity to seek independent legal and financial advice of its own choosing with respect to this RFO and agrees to be bound by the terms and specifications of this RFO and any addenda subsequently issued prior to the due date of the submittal.
3. Bidder has obtained all necessary authorizations, approvals, and waivers, if any, required by Bidder to submit its bid pursuant to the terms of this RFO and to enter into a final agreement with the Joint CCAs.
4. Bidder acknowledges that the Joint CCAs reserve the right to enter into relationships with more than one Bidder, can choose not to proceed with any Bidder with respect to one or more identified Tasks, and can choose to suspend this RFO or issue a new RFO that would supersede and replace this RFO.
5. Bidder warrants that it has no employees in its employ who in any capacity have a position at the Joint CCAs that enable him/her to influence the selection of a Bidder or any competing RFO, nor does Bidder have in its employ any of the Joint CCAs Directors, or Joint CCA employee who is the spouse or economic dependent of such a Joint CCA employee.
6. Bidder's submission complies with all applicable laws.
7. Bidder warrants that all information submitted by Bidder to the Joint CCAs in connection with this RFO is true and accurate as of the date of Bidder's submission. Bidder also covenants that it will properly update any submitted information immediately upon any material change thereto.
8. Bidder acknowledges and accepts that the Joint CCAs do not intend to provide collateral or performance security in connection with any PPA.

13. Interpretation

The Joint CCAs shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by the Joint CCAs or its representatives.

Should there be a need to clarify this RFO or any of its attachments, including but not limited to the Term Sheet, requests for clarification may be sent via e-mail at PCESJCE2020RFO@peninsulacleanenergy.com, to the attention of the procurement contacts designated in the Communications Section. Requests for clarification received after the deadline provided in the RFO Process and Timeline section to submit questions on the RFO will not be considered.

If there are any discrepancies between the RFO and the Term Sheet (Attachment 3), the Term Sheet would apply.

14. Grounds for Disqualification *(for SJCE only)*

All RFO Bidders are expected to have read and understand the "Procurement and Contract Process Integrity and Conflict of Interest", Section 7 of the Consolidated Open Government and Ethics Provisions adopted on August 26, 2014 ("Section 7"). A complete copy of the Resolution 77135: <https://www.sanjoseca.gov/home/showdocument?id=29663>.

Any RFO Bidders who violates Section 7 will be subject to disqualification. Generally, the grounds for disqualification include:

1. Contact regarding this procurement with any City official or employee or Evaluation team other than the RFO procurement contact designated in this solicitation from the time of issuance of this solicitation until the end of the protest period.
2. Evidence of collusion, directly or indirectly, among RFO Bidders regarding the amount, terms, pricing, or conditions of this proposal.
3. Influencing any City staff member or evaluation team member throughout the solicitation process, including the development of specifications.
4. Evidence of submitting incorrect information in the response to a solicitation or misrepresent or fail to disclose material facts during the evaluation process.

In addition to violations of the Section 7, the following conduct may also result in disqualification:

1. Offering gifts or souvenirs, even of minimal value, to City officers or employees.
2. Existence of any lawsuit, unresolved contractual claim or dispute between RFO Bidder and the City.
3. Evidence of RFO Bidder's inability to successfully complete the responsibilities and obligations of the proposal.
4. RFO Bidder's default under any City agreement, resulting in termination of such Agreement.

15. Code Adherence and Policies

RFO Bidder shall agree to abide by all laws, rules and regulations of the United States, State of California, Santa Clara County, San Mateo County and the City of San José.

For SJCE only, RFO Bidder must comply with City of San José Policies, which include but are not limited to the following:

- Environmentally Preferable Purchasing:
<https://www.sanjoseca.gov/home/showdocument?id=12833>
- Prohibition of City Funding for Purchase of Single Serving Bottled Water:
<https://www.sanjoseca.gov/home/showdocument?id=12885>
- Business Tax and Registration:
<http://www.sanjoseca.gov/BusinessTax>

16. Terms and Conditions of Agreement

All agreements entered into by SJCE pursuant to this solicitation are subject to the Appropriation of Funds, Designated Fund, and Limited Obligations provisions set forth in the Term Sheet, Attachment 3. These provisions are non-negotiable. SJCE's municipal advisor letter can be found at the following location: <https://www.sanjoseca.gov/home/showdocument?id=32199>

Bidder shall enter into a contract with SJCE or Peninsula Clean Energy in substantial conformity with the selected proposal, as mutually modified during negotiations with each CCA. Attachment 3, Term Sheet for Power Purchase Agreement, outlines the Joint CCAs standard terms and conditions as part of the agreement between each CCA and the successful Bidder. Each CCA reserves the right to negotiate project deliverables and associated costs.

All agreements will require the Bidder to adhere to the terms of their proposal and to act in accordance with all applicable laws and regulations. An agreement shall not be binding or valid unless and until the following has occurred:

- For SJCE, it is executed by authorized representatives of the City and approved by the City of San José's City Council. The City Council may also authorize the Director of Community Energy or her designee to negotiate and execute power supply contracts.
- For Peninsula Clean Energy, it is approved by the Peninsula Clean Energy Board of Directors and executed by an authorized representative of Peninsula Clean Energy.

17. Insurance Requirements

The selected Bidder, at Bidder's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain insurance as required by each of the Joint CCAs.

All policies, endorsements, certificates, and/or binders shall be subject to approval by the applicable CCA as to form and content. Insurance requirements are subject to amendment or waiver if so approved in writing by the applicable CCA. The selected Bidder agrees to provide the applicable CCA with a copy of said policies, certificates, and/or endorsements.

18. Public Nature of Proposal Material

All correspondence with the Joint CCAs including responses to this solicitation will become the exclusive property of the Joint CCAs and will become public records under the California Public Records Act (Cal. Government Code section 6250 et seq.) All documents that you send to the Joint CCAs will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement.

The Joint CCAs acknowledge that another party may submit information that the other party considers confidential, proprietary, or trade secret information pursuant 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) ("Confidential Information").

Therefore, any proposal which contains language purporting to render all or significant portions of their proposal "Confidential", "Trade Secret" or "Proprietary", or fails to provide the exemption information required as described below will be considered a public record in its entirety subject to the procedures described below. Do not mark your entire proposal as "confidential".

The Joint CCAs will not disclose any part of any proposal before it announces a recommendation for award, on the ground that there is a substantial public interest in not disclosing proposals during the evaluation process. After the announcement of a recommended award, all proposals received in response to this RFO will be subject to public disclosure.

In order to designate information as confidential, the Bidder must clearly stamp and identify the specific portion of the material designated with the word "Confidential" and provide a citation to the California Public Records Act that supports keeping the information confidential. Bidder should not to over-designate material as confidential. Over-designation would include stamping entire pages or series of pages as confidential that clearly contain information that is not confidential. Upon request or demand of any third person or entity not a party to this Agreement ("Requestor") for production, inspection and/or copying of information designated by Bidder as confidential information (such designated information, the "Confidential Information"), the Joint CCAs will notify the Bidder as soon as practical that such request has been made. The Bidder 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 Joint CCAs. If the Bidder takes no such action after receiving the foregoing notice from the Joint CCAs, the Joint CCAs shall be permitted to comply with the Requestor's demand and is not required to defend against it.

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over the Joint CCA, including the California Public Records Act, the City may release Confidential Information, or a portion thereof, as required by the Applicable Law, statute, ordinance, decision, order or regulation. In the event the Joint CCAs is required to release Confidential Information, it shall notify the Bidder of the required disclosure, such that the Bidder

may attempt (if it so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain.

19. Disclaimer

The Joint CCAs reserve the sole and discretionary right to (i) reject any offers received in response to this RFO for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, the Joint CCAs reserve the right, at their sole discretion, to not enter into any transaction at the conclusion of this RFO. The Joint CCAs shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by submission of the proposal. The Joint CCAs reserve the right to modify the terms and conditions of this RFO at any time based on changing needs and market feedback. The Joint CCAs also reserve the right to rescind this RFO at any time prior to the Joint CCAs' execution of a binding agreement. Notwithstanding anything to the contrary, no proposal, bid, offer, or proposed transaction (however described) shall be binding upon the Joint CCAs except pursuant to a written agreement signed by the authorized representative of each CCA and the counterparty. The Joint CCAs will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this RFO.

20. List of Attachments

1. Load Profile
 - a. SJCE
 - b. Peninsula Clean Energy
2. Offer Form
3. Term Sheet
4. Instructions for Providing Project Geospatial Footprint
5. Local or Small Business Forms
6. Supplier Diversity Questionnaire
7. Exclusivity Agreement