

# Request for Offers:

**Shaped Energy Supplies**

**Agreement No. PUC.PRO.0089**

**9/8/2017**



**San Francisco**  
**Water Power Sewer**  
Services of the San Francisco Public Utilities Commission

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# 1. INTRODUCTION AND BACKGROUND

The City and County of San Francisco (“City”), acting by and through its Public Utilities Commission, Power Enterprise (“SFPUC”), launched the first phase of CleanPowerSF, the City’s Community Choice Aggregation Program (“CCA Program”) in May 2016.

Today, CleanPowerSF is serving approximately 76,000 accounts with an annual energy requirement of approximately 535 gigawatt-hours (“GWh”). The program has maintained an opt-out rate of about 3.3%, and has attracted more than 1,800 pre-enrollments and 2,800 upgrades to CleanPowerSF’s 100% renewable *SuperGreen* product.

The SFPUC intends to complete citywide enrollment in the CleanPowerSF program by the summer of 2019. Upon full implementation, CleanPowerSF expects to serve approximately 360,000 retail accounts with total annual energy sales of approximately 3,600 GWh. To support citywide enrollment, CleanPowerSF issued a Renewable Energy Request for Offers (“RFO”) on June 22, 2017. The SFPUC anticipates entering into multiple short- and long-term renewable energy contracts as a result of the June 22<sup>nd</sup> solicitation.

As described more fully below, this RFO for Shaped Energy is intended to complement the Renewable Energy RFO by seeking bids for shaped energy, short-term renewable energy, environmental attributes and Resource Adequacy (“RA”) capacity. Specifically, the SFPUC seeks bids for energy products described in the Product Specifications sheet (Attachment A), consistent with the quantities, delivery periods, and renewable content quantities specified in the Bid Workbook (Attachment B) and that meet the following general criteria:

- Minimum annual energy delivery of 219,000 megawatt-hours (“MWh”) per year
- Initial delivery date ranging from May 2018 – April 2020
- Terms ranging from 1 year to a maximum of 3 years.

The City, acting by and through its Public Utilities Commission, CleanPowerSF, anticipates entering into contracts (Power Purchase Agreements or “PPAs”) with one or more winning Respondents through this RFO. The City’s payment obligations under the contract(s) executed through the RFO will be special limited obligations of the City payable solely from the revenues of CleanPowerSF.

The SFPUC expects to support CleanPowerSF’s financial obligations under the PPA’s awarded through this RFO with standby letters of credit from an investment-grade bank. The SFPUC will evaluate bids submitted hereunder on an all-in cost basis, considering the cost of credit support as well as the other bid parameters proposed by Respondents. For this reason, a Respondent proposing a lower requirement for credit support will be favored over a Respondent providing a higher requirement for credit support, all else equal.

## 1.1 The SFPUC

The SFPUC is a City department that provides drinking water to 2.5 million customers in the four (4) Bay Area counties of Alameda, Santa Clara, San Mateo and San Francisco; greenhouse gas (“GHG”)-free and renewable electricity in and around San Francisco, and; wastewater services within the City. Headquartered at 525 Golden Gate Avenue in San Francisco, the SFPUC has approximately 2,300 employees with a combined annual budget of approximately \$1 billion. The SFPUC’s mission

is to provide our customers with high quality, efficient and reliable water, power, and sewer services in a manner that is inclusive of environmental and community interests, and that sustains the resources entrusted to our care.

The SFPUC is comprised of three (3) separate enterprises. The SFPUC Water Enterprise is responsible for managing the transmission, treatment, storage and distribution of potable water to San Francisco's wholesale and retail customers, and the production of hydroelectric power. The SFPUC Wastewater Enterprise is responsible for managing the collection, treatment and disposal of San Francisco's wastewater. The SFPUC Power Enterprise (AA-/A+ long-term bond ratings from Fitch/Standard and Poor's) is responsible for managing retail power sales and service to both its CleanPowerSF and public utility customers, power transmission and scheduling, energy efficiency programs, street lighting services, utilities planning for redevelopment projects, energy resource planning efforts, and various other energy services.

The San Francisco Board of Supervisors adopted Ordinance 86-04 in 2004 authorizing the establishment of a CCA program in San Francisco. Pursuant to the San Francisco Charter, the SFPUC is responsible for the management of CleanPowerSF. As a division of the Power Enterprise, the CleanPowerSF program is under the direct administrative oversight of its Assistant General Manager, who in turn reports to the SFPUC General Manager. The program is funded by CleanPowerSF ratepayers. The goals of CleanPowerSF are to provide (1) affordable and reliable electricity services to San Francisco residents and businesses, (2) cleaner energy alternatives advancing the City's Greenhouse Gas reduction goals; (3) investment in local renewable energy projects and jobs; and (4) long-term rate and financial stability.

## **2. ATTACHMENTS**

The following attachments are included with this RFO:

- Attachment A: Product Specifications
- Attachment B: Bid Workbook (must be submitted with the bid)
- Attachment C: Form PPA
- Attachment D: Notice of Intent to Bid

Electronic versions of Attachments A, B, C, and D are available for download here:

<https://sfpuc.sharefile.com/d-s3788ca6cece48b58>

## **3. PRODUCTS SOUGHT**

The SFPUC is seeking proposals for the sale and purchase of the following energy supply products. Additional specifications regarding the terms for products sought are provided in Attachment A.

CleanPowerSF has provided the maximum energy quantities and indicative hourly load shapes in Attachment B – Bid Workbook. These volumes are indicative and will be refreshed. Respondents are

encouraged to bid all available volumes up to the specified maximum, as the SFPUC will consider bids of lesser volumes.

Respondents may bid on one or multiple products identified below and may submit more than one bid for a particular product. If necessary, Respondents may copy tabs of the bid workbook to submit multiple bids for a particular product.

### **3.1 Shaped Energy**

The SFPUC is seeking bids for electric energy delivered to the North-of-Path 15 (“NP 15”) trading hub [TH\_NP15\_GENAPND], as defined by the California Independent System Operator (“CAISO”), and shall be responsible for scheduling energy via inter-scheduling coordinator trades with CleanPowerSF’s designated scheduling coordinator.

The maximum energy quantities, indicative hourly load shapes, and contract delivery periods sought by CleanPowerSF are provided in Attachment B – Bid Workbook (Exhibit A-1, Shaped Energy). *Respondents may submit bids to supply the monthly energy quantities and the weekday and weekend shapes identified in the Bid Workbook. Respondents may also submit bids to supply conventional blocks of energy, such as around-the-clock (“ATC”) or 7x24, on peak (“On Peak”) or 6x16, or off peak (“Off Peak”) 7x8 products, in 25 MW increments, up to the total monthly quantities identified in Exhibit A-1. Please note specifics of blocks offered in Attachment B – Bid Workbook (Exhibit A-2 Block Energy).*

Respondents must describe whether they intend to source the requested energy supplies from: 1) generating units owned by the Respondent; 2) generating units controlled under contract (and identified as specified sources to CleanPowerSF); and/or 3) unspecified CAISO market purchases. Where possible, any specified generating sources to be used in fulfilling delivery of the proposed power supplies should be identified by the Respondent or be identified as “to be determined” in the Respondent’s bid materials.

### **3.2 Renewable Energy**

The SFPUC seeks bids for renewable energy from qualifying renewable resources (“Eligible Renewable Resources”) that meet the eligibility criteria established under California’s Renewable Portfolio Standard (“RPS”) program, consistent with Public Utilities Code Section 399.12 and Section 25741 of the California Public Resources Code.

The SFPUC seeks proposals that include renewable energy products meeting the delivery requirements established for Portfolio Content Category 1 (“PCC 1”) and Portfolio Content Category 2 (“PCC 2”). PCC 2 energy must comply with the requirements set forth in California Public Utilities Commission Decision 11-12-020 and Incremental Energy deliveries shall not be sourced from coal or nuclear resources. The maximum annual volumes of PCC 1 and PCC 2 renewable energy sought by CleanPowerSF are provided in Attachment B. The SFPUC expects that all renewable energy certificates associated with the contracted renewable energy product volumes will be transferred by the proposer, in a timely manner, to CleanPowerSF via the Western Renewable Energy Generation Information System (“WREGIS”).

The SFPUC has a preference for renewable generating resources located within California and within the nine (9) San Francisco Bay Area Counties. California-based resources and resources located within the nine (9) San Francisco Bay Area Counties will receive higher evaluative preference when the SFPUC reviews responses to this RFO.

### **3.3 Carbon-Free Energy**

The SFPUC is also seeking bids for additional carbon free energy to supplement the aforementioned renewable energy volumes to meet the following annual portfolio carbon emissions targets, in pounds of carbon dioxide equivalents (lbs CO<sub>2</sub>e) per megawatt-hour:

2018: 200

2019: 185

2020: 170

2021: 155

For purposes of this solicitation, carbon free energy will be limited to unit-specific hydroelectric energy produced by California-based or regional generators located within the Western Electricity Coordinating Council and directly deliverable to the CAISO Balancing Authority Area. The SFPUC will require Respondents to provide documentation (e.g., meter reads, e-Tags) to substantiate the production and delivery of the carbon free energy to support the reporting of such volumes in CleanPowerSF's Power Source Disclosure Report, as required by the California Energy Commission.

Annual carbon free energy volumes are provided in Exhibit C of Attachment B. *Respondents may submit bids identifying specific volumes of additional carbon free energy to be provided, or may commit to energy volumes featuring mix of conventional and carbon-free resources that achieve the annual CO<sub>2</sub> emissions rates.* The emissions rate calculation is set forth in Exhibit B of Attachment C.

### **3.4 Resource Adequacy ("RA") Capacity**

The SFPUC seeks bids for Firm RA Capacity<sup>1</sup> satisfying applicable requirements for the following capacity products: System RA (NP 15), Local RA, and a sufficient quantity of Flexible RA (from qualified generating resources) located within NP 15. RA products are to be provided/scheduled over a minimum term of one (1) year commencing in May 2018. Local RA is to be provided/scheduled from resources located within the PG&E "Greater Bay Area" and the "Other PG&E" local capacity areas, as specified in Attachments A and B (Exhibit D – RA Capacity). Final RA volumes will be provided before bidders are required to submit their best and final offer.

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<sup>1</sup> The SFPUC is seeking RA bids for Firm RA Capacity, but is willing to consider bids for Contingent Firm RA Capacity.

## 4. RFO TIMELINE AND INSTRUCTIONS TO RESPONDENTS

### 4.1 RFO Timeline

Event	Date
RFO issued	September 8, 2017
Deadline to submit non-binding Notice of Intent to Bid Form (“NOI”)	September 13, 2017 at 5:00 PM
Deadline to submit questions	September 13, 2017 at 5:00 PM
Responses to questions provided	September 15, 2017
Deadline to submit bids	September 22, 2107 at 5:00 PM
Notification of shortlisted Bidders	September 27, 2017
PPA negotiations and contract approval	October –December 2017 (estimated)
Best and Final Offer and PPA execution	Starting in December 2017

### 4.2 Notice of Intent to Bid

By September 13, 2017 at 5:00 PM, Bidders are strongly encouraged to return a completed Notice of Intent to Bid (“NOI”), as found in Attachment E via email to [powerpurchasing@sflower.org](mailto:powerpurchasing@sflower.org). All NOI submissions should include the number and title of the RFO. Submission of a NOI is not a prerequisite to a bid submittal.

### 4.3 Bid Documents

The submission of a bid shall be deemed a representation and certification by the Respondent that:

- Respondent has read and understands the information provided by the SFPUC in this RFO and the information is the basis for the submission of Respondent’s bid;
- Respondent has the financial and technical capability to successfully undertake and complete the responsibilities and obligations described in the bid submitted by Respondent;
- The SFPUC has the right to make any inquiry of Respondent or any third party it deems appropriate to substantiate or supplement information supplied by Respondent, and Respondent hereby grants the SFPUC permission to make these inquiries, and Respondent agrees to provide any and all requested documentation or information in a timely manner.

No request for modification of any bid shall be considered by the SFPUC after the submission of a bid on the grounds that the Respondent was not fully informed of any fact or condition stated in this RFO.

### 4.4 Addenda/Clarifications

Respondents are responsible for reviewing all portions of this RFO. Respondents are to promptly notify the SFPUC, in writing, if the Respondent discovers any ambiguity, discrepancy, omission, or

other error in the RFO. Any such notification should be directed to the SFPUC promptly after discovery, but in no event later than five working days prior to the date for receipt of bids. Modifications and clarifications will be made by addenda as provided below.

Any interpretation of, or change in, the RFO will be made by addendum and shall become a part of the RFO and of any Agreement awarded. Addenda will be distributed and posted on the [CleanPowerSF Energy Procurement website \(https://sfwater.org/index.aspx?page=1174\)](https://sfwater.org/index.aspx?page=1174).

The SFPUC will make reasonable efforts to distribute and post in a timely manner any modifications to the RFO on the [CleanPowerSF Energy Procurement website \(https://sfwater.org/index.aspx?page=1174\)](https://sfwater.org/index.aspx?page=1174). The Respondent shall be responsible for ensuring that its bid reflects any and all addenda posted by the SFPUC prior to the bid due date regardless of when the bid is submitted. The SFPUC will not be responsible for any other explanation or interpretation.

#### **4.5 Bid Submissions**

Respondents must deliver their RFO response via email to [powerpurchasing@sfwater.org](mailto:powerpurchasing@sfwater.org) by the deadline listed above. The subject line of the email shall be: "CleanPowerSF Shaped Energy RFO Response." Proposals must provide all of the information requested in this RFO in a summary document, not to exceed 10 pages. In addition, each proposal must include a cover letter signed by an individual authorized to obligate the Respondent to fulfill the commitments contained in the proposal. The letter must include the following: (1) a statement identifying the Lead Respondent if a JV is responding to this RFO; (2) a contact for all communications pertaining to the Respondent's proposal (include telephone number, fax number, e-mail address and mailing address); (3) a statement of the Proposer's overall ability and qualifications to conduct the work described in this RFO; and (4) a statement that the proposal meets the Bid Requirements set forth in Section 5.

Attachment B to this RFO must be completed and attached as an Excel spreadsheet format with the bid in order for the bid to be considered.

Bids must be submitted no later than **5:00 p.m. on Friday, September 22, 2017**. Respondents whose bids are selected for the RFO shortlist may be invited to submit optional supplemental materials.

For technical or procedural questions regarding the online submittal, please contact [powerpurchasing@sfwater.org](mailto:powerpurchasing@sfwater.org).

#### **4.6 Amendment or Withdrawal of Bids**

A Respondent may amend or withdraw its bid at any time before the expiration of the time for the submission of bids by (1) delivering a redlined version of the bid submittal in the same manner as specified for the original bid submittal, or (2) delivery of a written request for withdrawal, signed by, or on the behalf of, the Respondent.

#### **4.7 Rights of the SFPUC**

This RFO does not commit the SFPUC to enter into a contract with any Respondent nor does it obligate the SFPUC to pay for any costs incurred in preparation and submission of bids or in anticipation and execution of a contract. The SFPUC reserves the right to:



- Make the selection of bids based on its sole discretion;
- Reject any and all bids;
- Request any and all Respondents to provide additional information under this RFO;
- Prior to the submission deadline for bids, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any supplies to be provided under this RFO, or the requirements for contents or format of the bids;
- In its sole discretion and without notice, suspend, or terminate this RFO without liability to any Respondent;
- Issue subsequent Requests for Offers or Proposals;
- Remedy technical errors in the RFO process or documents;
- Approve or disapprove the use of particular subcontractors;
- Negotiate with any or all of the Respondents;
- Accept a bid or bids that are not the lowest price offer;
- Waive informalities and irregularities in the bids; and/or
- Enter into a contract with another Respondent in the event the originally selected Respondent(s) defaults or fails to execute a contract with the SFPUC.

This RFO does not constitute an offer to buy or create an obligation for the SFPUC, CleanPowerSF, and/or City to enter into an agreement with any entity, and the SFPUC, CleanPowerSF, and City shall not be bound by the terms of any bid until the parties have entered into a fully executed agreement.

Failure by the SFPUC to object to an error, omission, or deviation in the bid will in no way modify the RFO or excuse the Respondent from full compliance with the specifications of the RFO or any contract awarded pursuant to this RFO. No waiver by the City of any provision of this RFO shall be implied from any failure by the City to recognize or take action in response to a failure by a Respondent to observe any provision of this RFO. No Respondent responding to this RFO shall obtain any claim or right of action against the SFPUC by reason of any aspect of the RFO, and defects or abnormalities contained herein, and defects or abnormalities in the selection process, the rejection of any bid, the acceptance of any bid, any statements, representation, acts or omissions of the SFPUC, the exercise of any SFPUC discretion set forth in or with respect to any of the foregoing, and any and all other matters arising out of all or any of the foregoing.

## **5. BID REQUIREMENTS**

This section sets forth the guidelines for the content and format of bids. Each Respondent shall submit their proposal with a Proposal Narrative, not to exceed 10 pages, a Bid Workbook, and any other supplemental information requested. Respondents may submit one or more bids in response to this RFO using the Bid Workbook. Respondents should review the instructions provided in the Bid Workbook (Attachment B) for additional information regarding the organization and submittal

of bids. The SFPUC anticipates entering into contracts with one or more winning Respondents through this RFO.

## **5.1 Proposal Narrative**

The City is seeking bids from entities sufficiently qualified, experienced and capable of providing the desired energy products. The following is a list of the City's minimum requirements for the Proposal Narrative.

- A description of the proposed products offered.
- A description of the Respondent, its organization, key personnel, and operations, and provide similar information for any third parties that would be relied upon to provide the proposed services. If the Respondent is a Joint Venture ("JV"), include a description of the organization, relationships, and defined responsibilities of all Partners in the JV and any previous project-specific associations of the JV Partners.
- A description of Respondent's overall ability and qualifications to deliver the energy products described in the bid, including descriptions of power purchase agreements which are generally similar to those addressed in the Respondent's bid.
- A demonstration of the Respondent's financial viability by providing access to the following documentation:
  - Audited financial statements from the previous two years and a recent quarterly financial report (or a web link where such information is accessible).
  - If available, the credit rating history of the Respondent (or its guarantor) for the previous two years from two of the following: Standard & Poor's, Moody's, or Fitch Investor Services.
  - If the Respondent's (or its guarantor's) credit rating is below investment grade (below BBB-/Baa3), or falls below investment grade during the contract term, confirmation that the Respondent will provide equivalent credit support for the duration of the contract through cash collateral, a letter of credit, a first or second lien on the generating facilit(ies) or an alternative equivalent credit mechanism.
- A description of the assumptions for credit support that underlie Respondent's proposal. This description should summarize Sellers expectations/requirements for Buyer's collateral posting. For example, Respondent should state whether the collateral posting is expected to cover the entire monthly payment or only the termination payment amount, and whether the collateral posting requirement will be capped at a fixed amount. This description will be used to estimate the SFPUC's cost of credit support for each Respondent's proposal.

## **5.2 Bid Criteria**

The following bid criteria apply:

- All energy bids must be submitted for firmed and shaped product.
- The selected Respondent(s) will be responsible for transferring the specified energy quantities to CleanPowerSF at the designated delivery point through the CAISO inter-scheduling coordinator trading process. Respondents shall serve as their own SC or make arrangements for a third party SC at no cost to CleanPowerSF.
- Deliveries shall be equivalent to 100% of the volumes specified by the Respondent in its Bid Workbook (Attachment B) and may be from multiple generating facilities so long as each facility meets the qualifying criteria set forth in this RFO. Bids shall provide fixed hourly quantities delivered in the form of hourly shapes identified in Exhibit A-1 or standard blocks of energy (e.g., 7x24, 7x8, 6x16) to be specified by the Respondent in Exhibit A-2.
- *Energy deliveries shall NOT be shaped or firmed with coal or nuclear resources.*
- All renewable energy deliveries must meet the eligibility criteria for either PCC 1 or PCC 2. *Incremental Energy associated with PCC 2 deliveries shall not be sourced from coal or nuclear resources.*
- Product pricing:
  - For Shaped Energy, bids are to be provided as a fixed \$/MWh price for each calendar year (or portion thereof) of the proposed contract term for delivery to the generator node; and NP 15 trading hub, defined as TH\_NP15\_GENAPND by the CAISO.
  - For Renewable Energy, bids are to be provided as a fixed \$/MWh price premium (expressed as an adder on top of the shaped energy price) for each calendar year (or portion thereof) of the proposed contract term.
  - For Carbon Free Energy, bids are to be provided as a fixed \$/MWh price premium (expressed as an adder on top of the shaped energy price) for each calendar year (or portion thereof) of the proposed contract term.
  - For RA capacity, bids are to be provided as a fixed \$/kW-month price for each calendar year (or portion thereof) of the proposed contract term.
- Each pricing option shall remain unchanged throughout the entire contract term and shall not be adjusted by periodic escalators or time of delivery multipliers/factors.
  - The SFPUC is seeking bids for Firm RA Capacity, but will consider bids for Contingent Firm RA Capacity
- Contract term shall be no more than three (3) years (not including optional extension terms).
- A delivery commencement date no sooner than May 1, 2018 and no later than April 30, 2020.
- A minimum hourly quantity of no less than 1 MW.
- Total annual deliveries shall be at least 219,000 MWh and no more than the annual quantities identified in Attachment B, Exhibit A-1.

### 5.3 Green-e Energy Eligibility

CleanPowerSF has a preference for renewable generating resources that are Green-e Energy eligible to meet its needs for customers that choose CleanPowerSF's Premium Product. Respondents should review the currently effective Green-e Energy National Standard for information regarding the eligibility criteria for such resources and indicate in their bid if they intend to deliver renewable energy meeting the Green-E Energy standard for all or part of the volume offered.

A copy of the Green-e Energy National Standard as well as additional information regarding the Green-e Energy program can be accessed via the following web link:

[http://www.green-e.org/getcert\\_re\\_stan.shtml#standard](http://www.green-e.org/getcert_re_stan.shtml#standard).

## 6. CONTRACT FORM

The SFPUC intends to execute power purchase agreements with one or more selected respondents using the SFPUC's Form PPA included as Attachment C. However, the Form PPA will be amended as necessary to reflect the elements of the selected bids, for example, additional language for PPC 2 energy deliveries, or optional bid components. The SFPUC may elect to use a Western System Power Pool ("WSPP") Confirmation for shorter term contracts. The PPA may be subject to review and approval by the San Francisco Public Utilities Commission and the Board of Supervisors.

## 7. SELECTION CRITERIA

The SFPUC will evaluate the bids provided in response to this RFO to establish a balanced, viable portfolio of supply for the CleanPowerSF program. Development of the portfolio will consider the following criteria:

- *Qualifications and Experience of the Respondent.* The experience and track record of the Respondent and key personnel; financial strength and viability of Respondent and if applicable, its partners; credit support to be provided, if credit rating is below investment grade; years of experience; and volume of energy supplied in the most recent calendar year (e.g., 2016).
- *Total Cost of Bid and Value to CleanPowerSF.* The impact of the proposed pricing in relation to the target CleanPowerSF rates (i.e., providing lowest total costs); contribution to CleanPowerSF price stability and competitiveness; and the impact of the bid on CleanPowerSF's residual market exposure, financial risk and collateral requirements.
- *Bid Compatibility with CleanPowerSF's Portfolio Requirements.* The SFPUC's evaluation will consider the compatibility of a bid's proposed monthly energy deliveries, environmental attributes and RA Capacity quantities and attributes with CleanPowerSF's near-term needs.
- *Generating Resource Location.* The SFPUC will also consider the location of proposed generating resources. California-based renewable and carbon-free resources and renewable resources located within the nine (9) San Francisco Bay Area Counties are preferred.

The SFPUC reserves the right to consider other factors than those specified above and to request additional information from Respondents as needed to assist in selecting the proposal(s) for further consideration.

The SFPUC does not anticipate conducting oral interviews for this RFO. However, the SFPUC reserves the right to contact any Respondent for additional information or clarification of the terms of the bid.

## **8. PROTEST PROCEDURES**

### **8.1 Protest of Non-Responsiveness Determination**

After receipt of proposals, the SFPUC will conduct an Initial Screening of submitted proposals as set forth in Section 5 of this RFO. If staff determines that a proposal should be rejected because it is either non-responsive to RFO requirements or is otherwise unacceptable (i.e., fails to meet the minimum qualification requirements set forth in the RFO), then the City will issue a Preliminary Notice of Proposal Rejection to the applicable Respondent(s).

If a Respondent believes that the City has incorrectly determined that its proposal should be rejected, Respondent may submit a written notice of protest within five (5) working days of the SFPUC's issuance of a Preliminary Notice of Proposal Rejection. Such notice of protest must be received by the SFPUC on or before the fifth (5th) working day following the SFPUC's issuance of the Preliminary Notice of Proposal Rejection. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFO provision on which the protest is based. In addition, the Respondent must specify facts and evidence sufficient for the SFPUC to determine the validity of the protest. The City, at its discretion, may make a determination regarding a protest without requesting further documents or information from the Respondent who submitted the protest. Accordingly, the initial protest must include all grounds of protest and all supporting documentation or evidence reasonably available to the prospective Respondent at the time the protest is submitted. If the Respondent later raises new grounds or evidence that were not included in the initial protest, but which could have been raised at that time, then the City may not consider such new grounds or new evidence.

Upon receipt of a timely and proper protest, the City will review the protest and conduct an investigation as it deems appropriate. As part of its investigation, the City may consider information provided by sources other than Respondent. The City may also consider supplemental correspondence or other information relating to the original ground(s) of Protest submitted by a protesting Respondent to the extent the City determines that such information will assist it in resolving the Protest. At the completion of its investigation, the City will provide a written determination to the Respondent who submitted the protest.

Protests not received within the time and manner specified will not be considered.

If a Respondent does not protest a Preliminary Notice of Proposal Rejection within the time and in the manner specified, above, then the City's determination set forth in the Preliminary Notice will

become final. A Respondent's failure to protest as specified above on or before the time specified above shall constitute a complete and irrevocable waiver of the ground(s) of protest and forfeit the Respondent's right to raise such ground(s) of protest later in the procurement process, in a Government Code Claim, or in other legal proceedings.

## **8.2 Protest of Agreement Award**

As soon as the PPAs with the selected Respondent(s) are finalized, the SFPUC will post notice of the award on the [CleanPowerSF Energy Procurement website](https://sfwater.org/index.aspx?page=1174) (<https://sfwater.org/index.aspx?page=1174>). Within five (5) working days of the posting of the notice, any Respondent that has submitted a responsive proposal and believes that the City has unfairly selected another Respondent may submit a written notice of protest.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFO provision on which the protest is based. In addition, the Respondent must specify facts and evidence sufficient for the City to determine the validity of the protest. All protests must be received by the SFPUC on or before the fifth (5th) working day following the SFPUC's posting of the notice of award.

## **8.3 Delivery of Protests**

If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to:

San Francisco Public Utilities Commission  
Contract Administration Bureau  
RE: CleanPowerSF Shaped Energy RFO (PRO.0089)  
525 Golden Gate Avenue, 8th Floor  
San Francisco, CA 94102

# **9. ADDITIONAL SFPUC REQUIREMENTS**

## **9.1 Respondent Proprietary Information**

In accordance with San Francisco Administrative Code Section 67.24(e), bids, responses to RFOs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or entity's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Proprietary data shall be specifically identified on every applicable page of the Respondent's proposal; Respondents should mark or stamp applicable sections and information as "Confidential" or "Proprietary". The City does not acknowledge, warrant, represent, or guarantee that any

information so designated will be treated as confidential or proprietary information if disclosure is required under any applicable state, federal, or City law or regulation.

## **9.2 The Campaign Reform Ordinance**

Respondents must comply with Section 1.126 of the San Francisco Campaign and Governmental Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations for such contract until (1) the termination of negotiations for such contract; or (2) three months have elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

If a Respondent is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the Respondent is prohibited from making contributions to:

- The officer's re-election campaign;
- A candidate for that officer's office; and
- A committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a Respondent approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential Respondent about a contract. The negotiation period ends when a contract is awarded or not awarded to the Respondent. Examples of initial contacts include: (i) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (ii) a city officer or employee contacts a Respondent to propose that the Respondent relating to a RFO, and requests to be placed on a mailing list do not constitute negotiations. Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. Criminal: Any person who knowingly or willfully violates Section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil: Any person who intentionally or negligently violates Section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative: Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

## 10. DEFINITIONS

**“Applicable Law”** means any statute, law, treaty, rule, tariff, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time, that apply to either or both of the Parties or the terms of the Agreement.

**“ATC”** means around-the-clock from hour ending 0100 through hour ending 2400 Monday through Sunday, or 7x24.

**“Buyer”** means City and County of San Francisco, acting by and through its Public Utilities Commission, CleanPowerSF.

**“CAISO”** means the California Independent System Operator Corporation or the successor organization to the functions thereof.

**“CAISO Tariff”** means the California Independent System Operator Corporation, Fifth Replacement Federal ERC Electric Tariff as it may be amended, supplemented or replaced (in whole or in part) from time to time.

**“CEC”** means the California Energy Commission.

**“City”** means the City and County of San Francisco.

**“CleanPowerSF”** means the community choice aggregation program operated by City.

**“CPUC”** means the California Public Utilities Commission.

**“ERR”** shall mean an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16.

**“Green Attributes”** means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from a Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from a project, (ii) production tax credits associated



with the construction or operation of a project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by a project for compliance with local, state, or federal operating and/or air quality permits. If a Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

“GWh” means gigawatt-hour.

“Inter-Scheduling Coordinator” or “Inter-SC Trades” has the meaning set forth in the CAISO Tariff.

“MW” means megawatt.

“MWh” means megawatt-hour.

“Off Peak” means between hour ending 0100 through hour ending 0600, and hour ending 2300 through hour ending 2400 Monday through Sunday, or 7x8.

“On Peak” means between hour ending 0700 through hour ending 2200 Monday through Saturday, excluding NERC holidays, or 6x16.

“Partial Capacity Deliverability Status” or “PCDS” has the meaning set forth in the CAISO Tariff.

“Portfolio Content Category 1” or “PCC 1” means Renewable Energy that satisfies the requirements of Section 399.16(b)(1) of the California Public Utilities Code.

“Portfolio Content Category 2” or “PCC 2” means Renewable Energy that satisfies the requirements of Section 399.16(b)(1) of the California Public Utilities Code.

“PPA” means Power Purchase Agreement.

“Renewable Energy” means Energy and Green Attributes generated from an ERR that: (1) meets the requirements of Portfolio Content Category 1 or 2 as set forth in the California Public Utilities Code Section 399.16(b)(1), and (2) is generated in the same calendar year that it is delivered to City.

“Renewable Energy Certificates” or “RECs” has the meaning set forth in California Public Utilities Code Section 399.12(f) and CPUC decision 08-08-028 as may be amended from time to time or as further defined or supplemented by Applicable Law.

“Renewables Portfolio Standard” or “RPS” means the California renewables portfolio standard, as set forth in California Public Utilities Code §§ 399.11 et seq. and California Public Resources Code §§ 25740-25751, and as administered by the CEC as set forth in the CEC RPS Eligibility Guidebook (7th Ed.), as may be subsequently modified by the CEC, and the California Public Utilities Commission (“CPUC”) and as may be modified by subsequent decision of the CPUC or by subsequent legislation, and regulations promulgated with respect thereto.

“Resource Adequacy” or “RA” means the local and system resource adequacy capacity requirements established for load serving entities by the CPUC pursuant to the CPUC Decisions, the flexible

capacity standards under the CAISO Tariff or by any other Governmental Authority having jurisdiction.

**“Scheduling Coordinator” or “SC”** means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in “Responsibilities of a Scheduling Coordinator” as set forth in the CAISO Tariff.

**“Seller” or “Supplier”** means the owner and operator of a power generating facility who will sell the product of the facility to the Buyer.

**“WECC”** means the Western Electricity Coordinating Council.

**“WREGIS”** means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

**“WSPP Confirmation”** means Western System Power Pool Confirmation.