**NORTHERN CALIFORNIA POWER AGENCY**

**Request for Proposals for Renewable Energy Resources,**

**Carbon Free Energy Resources, and Energy Storage Solutions**

**APPENDIX A**

**PRELIMINARY TERM SHEET**

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| **Date** | [**DATE**] |  |
| **Buyer** | Northern California Power Agency (“NCPA”, “Buyer”, or “Party”) |  |
| **Seller** | [**NAME**] (**“Short Name**”), “Seller”, or “Party”) |  |
| **Project Name** | [**Project Name**] (the “Project”), a [**indicate type**] generating facility with a net nameplate capacity of [**#**] MW located in [**county and state**]. | Comments: |
| **Technology** | [**Describe Technology Type**] | Comments: |
| **Product (Portfolio Content Category 1)** | Portfolio Content Category 1 (“PCC1”), a.k.a. Bucket 1, energy (as per CPUC Section 399.16 (b)(1)), associated attributes, capacity, services and all ancillary products similar to the foregoing which are or can be, now and in the future, produced by or associated with the Project, including, without limitation, delivered energy, renewable attributes, renewable energy credits (“RECs”), resource adequacy (“RA”) and local capacity requirement (“LCR”) (if applicable to this Project) capacity attributes as defined by the California Independent System Operator (“CAISO”), future capacity value and renewable attributes. Seller will deliver LCR and RA system capacity to Buyer from the commercial operation date (“COD”) until the end of the term of the power purchase agreement between Buyer and Seller (“PPA”) (if applicable to this Project). All PCC1 electricity products must be generated by a generation facility that has been certified (or satisfies all of the requirements to be certified and will be certified within six (6) month of the COD) as an eligible renewable energy resource facility by the California Energy Commission (“CEC”) and must be scheduled into a California balancing authority. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Guaranteed Commercial Operation Date** | [**Date**] or earlier, provided Seller notifies Buyer at least 12 months in advance of the earlier COD. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Monthly Attestation Certification** | Seller to include an Environmental Attribute Attestation and Bill of Sale included in every monthly invoice. The “Seller” to confirm on the monthly basis their compliance with the Power Purchase Agreement and deliver to the “Buyer” the Environmental Attributes as certified by the CEC. The “Seller” confirms that the “Seller” has uploaded Environmental Attributes to WREGIS System (“WREGIS Certificates”). | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Monthly Operational Reports** | Seller to provide monthly reports of past generation performance that include, but are not limited to: Project performance summary with month/year to date, project performance on MWh, capacity factor, comparison of actual vs. expected, availability, wind speed/average illumination; operational summary including weather for the month, reasons for downtime, scheduled maintenance and repairs, curtailment events; safety and environmental summary. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |

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| **Metering Connection** | Seller agrees to provide to user a live data metering connection that may be accessed using the Inter-Control Center Communications Protocol (ICCP) as defined by the International Electrotechnical Commission (IEC). This ICCP connection enables the exchange of real-time and historical power system monitoring and control data, including measured values and accounting data. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Point of Delivery** | The energy point of delivery (“POD”) shall be the [**Substation**] in [**County**]. All transmission and ancillary service costs, including scheduling from the generating facility to the POD and transformer crossover fee for transmitting energy between substations, must be included in the Contract Price. Buyer will only purchase and pay for energy delivered to Buyer at the POD which energy shall be net of parasitic load, transmission and transformation losses. If Project delivers energy through the CAISO system, the appropriate PNODE will be [**POD**]. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **First Point of Interconnection** | Seller must have a fully executed generation interconnection agreement at the time of execution of the PPA. The first point of Interconnection will be: [**POI**] | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |

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| **Buyer Economic and Operational Curtailment** | The Buyer may elect to curtail the Project output by up to [#]% of the Annual Contract Quantity for each full Contract Year after COD at no cost. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Guaranteed Energy Production** | Seller warrants that the Project will generate no less than 80% of the expected annual energy generation from the project (“Annual Contract Quantity”), for wind or solar, and 90% of Annual Contract Quantity for base-load or other non-intermittent eligible renewable energy, measured over a full contract year beginning on the first full contract year after COD (“Measurement Period”), excluding hours during which Seller is unable to generate, schedule or deliver energy to POD due to an event of force majeure, Buyer’s failure to schedule the energy from the POD, or periods during which generation or transmission is curtailed or interrupted for whatever reason on the Buyer's side of the POD, including but not limited to system emergencies, event of force majeure, reliability, congestion or over-generation (“Guaranteed Energy Production” or “GEP”). | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **GEP Cures and Damages** | If the Project delivers less energy than the GEP for any given contract year (“GEP Failure”), Seller shall cure the GEP Failure by delivering to Buyer equivalent makeup Product during the contract year immediately following the year of the GEP Failure (“Cure Period”). During any contract year, the Product delivered will not be counted toward the GEP Failure from the previous year until 80%, for wind and solar resources, and 90% for any base-load or non-intermittent eligible renewable energy resources, of the Annual Contract Quantity has been delivered for the then current contract year. If Seller does not cure the GEP Failure during the Cure Period, Seller shall pay Buyer damages within sixty (60) days after the end of the Cure Period for any GEP Failure not cured. Seller shall pay damages for any GEP Failure which occurs during the last year of a compliance period. Some NCPA members may opt for immediate damages without a Cure Period. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **RPS and EPS Compliant** | Seller shall warrant that the facility will be RPS Compliant (CPUC Section 399.16 (b)(1), i.e., Portfolio Content Category 1 resource) at COD and throughout the term of the PPA, and Seller shall assume any risk of bringing the facility back into RPS compliance should the facility fall out of compliance with RPS or EPS after COD and throughout the term of the PPA.  Seller shall be responsible for compliance obligations and other obligations associated with the facility, including but not limited to costs and expenses incurred by Seller which shall be paid directly to the third parties in connection with or related to, Environmental liabilities or costs, Greenhouse Gas Emissions Reporting, WREGIS, and CEC certification and verification (“Seller’s Compliance Obligations”).  If after the COD and throughout the term of the PPA the facility falls out of compliance with RPS, then Buyer and Seller agree to the following sequence of actions; first the (i) Seller will take all commercially reasonable actions to bring the facility back into compliance with RPS and will also continue to maintain compliance with RPS after having brought the facility back into compliance for the remainder of the term of the contract, in the event that the facility is still not in compliance with RPS despite the actions of Seller under (i) then (ii) Buyer and Seller will mutually agree upon energy index price that Buyer will pay to Seller in lieu of the original contract price, which index price will not include the value of the environmental attributes, but in no event shall the new contract price be more than the original contract price, the new contract price shall remain in place until the facility is brought back into compliance with RPS, however (iii) if RPS laws cease to be effective or it becomes impossible for Seller to bring the facility back into compliance with RPS, Buyer shall remain obligated to purchase facility product at a mutually agreed upon energy index price that is without the value of the environmental attributes throughout the term of the PPA, but in no event shall such energy index price be more than the original contract price. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Compliance with Environmental Regulations** | The Project received a final notice of determination under the California Environmental Quality Act (“CEQA”), the National Environmental Policy Act (“NEPA”) and/or other comparable environmental law of the state where the Project is located. Buyer’s and NCPA Project participant’s acceptance of the Project’s environmental compliance may be a condition precedent to Buyer entering into the PPA. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Right of First Offer and First Refusal** | NCPA shall have the right of first refusal and the right of first offer for any proposed sale of the Project or any interest held by Seller in the Project; provided that this right of first refusal and right of first offer shall not apply with respect to the sale of interests in Seller in connection with a tax equity financing. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Project Purchase Option** | Buyer shall have the right to purchase the Project during the delivery term by providing a tentative notice to Seller of its right to exercise its purchase option:   1) 1 year prior to the 7th anniversary of COD, with closing to occur on the 7th anniversary of COD. 2) 1 year prior to the 10th anniversary of COD, with closing to occur on the 10th anniversary of COD. 3) 1 year prior to the 15th anniversary of COD, with closing to occur on the 15th anniversary of COD. 4) 1 year prior to every subsequent five years after the 15th anniversary of COD until the end of the term of the PPA.  The above collectively (the “Project Purchase Option”).  Disclosure Updates: No later than 45 days after receipt of Buyer’s tentative option exercise notice, Seller shall provide updated disclosure schedules.  The fair market value (“FMV”) of the Project is to be determined after receipt of Seller’s updated disclosure schedules.  Strike Price: The Parties will establish the minimum, maximum, and final purchase prices as well as other terms and conditions in the Project Purchase Option agreement. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |

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| **Full Capacity Deliverability (CAISO Projects)** | Seller has executed large generation interconnection agreement (“LGIA”) or small generation interconnection agreement (“SGIA”), as applicable with the California Independent System Operator (“CAISO”), for energy and full capacity deliverability for the Project to qualify for RA and LCR benefits (as available). Seller shall reasonably support Buyer in Buyer’s efforts to obtain LCR. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Site Control** | Seller must have full site control for the Project, including real property, water, necessary easements and access and related rights such as Project site lease agreements and easements for the term of the PPA and/or ownership interest therein. Seller to provide copies of such interests in the Project site to Buyer. All real estate and other associated rights including lease agreements shall be transferable to Buyer upon Buyer’s exercise of the Project Purchase Option. Seller to provide Buyer with step in rights to cure any defaults under any lease or development agreement(s). | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Credit Support and Security** | Seller shall provide or cause to be provided, as appropriate, a separate letter of credit (“LOC”), cash, or guaranty, at the option of Seller (“Acceptable Form of Performance Assurance”) meeting the qualifications to be provided in the PPA as follows:  An acceptable form of Performance Assurance shall be provided as a condition to the effectiveness of the PPA or within ten (10) days of the execution of the Power Purchase Agreement, as appropriate, for project development security at a minimum amount of 50% of the first year Contract Price per MWh multiplied by the Annual Contract Quantity during the first full Contract Year for intermittent resources or 20% of the first year Contract Price per MWh multiplied by the Annual Contract Quantity during the first full Contract Year for baseload resources.  An Acceptable Form of Performance Assurance securing performance after COD and for the term of the PPA shall be provided concurrent with achieving Commercial Operation at a minimum amount of the first year Contract Price per MWh multiplied by the Annual Contract Quantity during the first full Contract Year for intermittent resources or the first year Contract Price per MWh multiplied by the Guaranteed Energy Production during the first full Contract Year for baseload resources. All security shall be promptly replenished when drawn upon by Buyer. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Termination Rights** | Buyer’s unilateral right to terminate PPA if: · Seller fails to timely meet Key Milestones, provided Buyer shall not terminate during the period Seller is obligated to pay liquidated damages; · Seller fails to obtain CEC certification; · Seller defaults under the PPA, provided Seller does not cure any such default during the applicable cure period(s); or · Other Buyer termination rights to be included as part of the final PPA | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Delay Damages** | If Seller fails to timely achieve the Key Milestones in Appendix 2 including the milestone date for commercial operation by its guaranteed milestone date, then Seller shall pay liquidated damages to Buyer in an amount equal to the amounts indicated in Appendix 2 of this term sheet (“Daily Delay Damages”). The amount of Daily Delay Damages shown in Appendix 2 shall be subject to negotiation between the Parties and shall reflect a fair average compensation for any loss that may be sustained as a result of Seller’s failure of performance. Seller will be liable for Daily Delay Damages from the date of any missed milestone and every intervening day between that date and the earlier of (x) the date the missed milestone is achieved, or (y) the date, if any, on which the PPA is terminated by Buyer. If multiple Key Milestones are missed on any given day, and each such milestone requires the payment of Daily Delay Damages as set forth in Appendix 2, then Seller shall pay to Buyer the aggregate amount of Daily Delay Damages for each milestone missed. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Special Purpose Entity** | The Project entity is expected to be in the form of a Special Purpose Entity in conformance with the general requirements and standard structure of such an entity. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Assignment/ Lender Consent** | Seller may not assign the PPA without the prior written consent of Buyer. Seller may assign the PPA for the sole purpose of financing exclusively the Project to any project lender or the assignment of the PPA to a tax equity investor in connection with a tax equity financing without Buyer’s consent; provided that the terms of any such consent including all agreements thereto conform the requirements of the final PPA. Where necessary and appropriate Buyer will enter into a reasonable consent and agreement with Seller and any project lender providing customary requirements and conditions with respect to the financing arrangement including, among others, those relating to Parties’ cure rights and Parties’ rights to assume the loan upon foreclosure, all of which is to be provided in the PPA. Buyer’s consent shall not be unreasonably withheld. Buyer may assign the PPA to any of its creditworthy NCPA member. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Contract Price (provide all available pricing)** | $\_\_\_\_/MWh with \_\_\_% annual escalation starting in Contract Year 2 after COD for \_\_ years  **AND/OR**  $\_\_\_\_\_\_\_/MWh fixed for the term of the PPA of \_\_\_ years  **AND/OR**  \_\_\_\_\_\_\_\_Index plus $\_\_\_\_\_ for \_\_ years and excess energy above  (include separate reduced pricing for early energy delivery, startup and test energy, expected delivered energy, and excess energy above expected energy)  (Prices should be for renewable generation and separate pricing for energy storage should be provided in the storage section) | Comments: |
| **Future Phases; Additional Projects** | Where applicable, a provision will be included in the PPA that provides Buyer with a right of first offer to evaluate and negotiate a PPA and an Option Agreement for the output from any additional phases of this Project, as well as separate projects that are currently under development by, or will be developed by, Seller and that will use or share infrastructure, land, equipment (including the ability to jointly procure equipment) or other facilities. In addition, should Buyer decline to purchase the output from any such additional project or projects, Seller shall covenant that it will not subsequently offer more favorable monetary terms to another buyer for the same without providing Buyer with a subsequent right to purchase the output for the more favorable price. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Storage** | In recognition of emerging technologies and opportunities that will continue to evolve during the Term of the PPA, the PPA will include a provision that gives the Parties the right to incorporate the use of storage technologies into the Project on terms and conditions that are acceptable to Buyer and Seller. Storage requirement: Half the size of the nameplate capacity with at least 4-hour duration.  Pricing:  Include price for Storage, excluding renewable generation price. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |

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| **Change in Control; Accommodations to Financing Parties** | There will be no amendments to the PPA in connection with a request for Buyer’s consent to a Change in Control, unless both Parties agree. To the extent any financing party (equity or debt) requires a particular accommodation to the language in the PPA, such provision will be negotiated in the PPA. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Appendices** | Annual Contract Quantities must be listed by year in Appendix 1 of this Term Sheet. Milestone Schedule must be completed in Appendix 2 of this Term Sheet. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Non-Binding Term Sheet** | Seller and Buyer fully understand and agree that this Term Sheet does not contain all of the requisite terms and conditions of a definitive agreement and is not intended to create, nor does it create, a binding and enforceable commitment between the Parties.  Seller and Buyer fully understand and agree that no binding contract will exist between the Parties until the Parties execute a definitive PPA, all required approvals are obtained and all conditions precedent to the effectiveness of that PPA have been satisfied. Seller and Buyer fully understand and agree that any costs or obligations incurred as a result of or during the course of negotiation or other associated work on this term sheet shall be the sole responsibility of each individual Party itself and shall not implicate the other Party for any costs whatsoever. | Check Appropriate Box:  Agreed:    Not Agreed:    Comments: |
| **Authorized Contact Name** | [**Names and Titles**] | Contact Information: [**phone #, email, address, etc.**] |

**APPENDIX 1: ANNUAL CONTRACT QUANTITY**

**[Project Name]**

(Table to be completed)

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| --- | --- |
| **Contract Year** | **Expected Annual Contract  Quantity, MWH** |
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**APPENDIX 2: MILESTONE SCHEDULE**

**[Project Name]**

(Table to be completed)

**Pre-COD**

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| --- | --- | --- | --- | --- |
| **No.** | **Guaranteed Date** | **Milestone Description** | **Daily Liquidated Damages for Delay** | **Security Deposit at Milestone Achievement** |
| 1 | 10 days following PPA execution, or as a condition to effectiveness of the PPA | Project Development Security (Initial) |  |  |
| 2 | Earlier of 241 days following PPA Execution or 12 months in advance of COD notification | Performance Term Security (at COD notice) |  |  |
| 3 | [**Date**] | Execute Site Control Agreement | [**$XX,000**] for up to 180 days of delay |  |
| 4 | [**Date**] | Execute Interconnection Agreement | Mitigation Plan to Complete |  |
| 5 | [**Date**] | Execute Project Financing Documents | Mitigation Plan to Complete |  |
| 6 | [**Date**] or Earlier date notified by the Seller | Begin Construction of the Project Facility | [**$XX,000**] for up to 180 days of delay |  |
| 7 | [**Date**] or Earlier date notified by the Seller | Commercial Operation Date | [**$XX,000**] for up to 180 days of delay (up to Project Development Security) |  |

**Post-COD**

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| **No.** | **Guaranteed Date** | **Milestone Description** | **Daily Liquidated Damages for Delay** | **Security Deposit at Milestone Achievement** |
| 7 | [**Date**] | Proof of CEC certification within 6 months of COD |  |  |
| 8 | [**Date**] | Verification of WREGIS Registration (pre-COD Seller must provide sufficient evidence to Buyer that it has prepared and registered all required documents and have taken all necessary steps for final WREGIS approval, including the Notice of Substantial Completion or COD notice to WREGIS, as appropriate. Post-COD Seller must provide sufficient evidence to Buyer that substantial completion of the Project is verified, and it has provided WREGIS with the notice of COD and are only waiting for WREGIS to approve the unit so that RECs can be created. |  |  |
| 9 | [**Date**] | Seller to provide monthly reports of expected generation (indicators of when there may be a shortfall). |  |  |
| 10 | [**Date**] | Seller to provide monthly reports of past generation performance that include but are not limited to: Project performance summary with month/year to date Project performance on MWh, capacity factor, comparison of actual vs. expected, availability, wind speed/average illumination; operational summary including weather for the month, reasons for downtime, scheduled maintenance and repairs, curtailment events; safety and environmental summary. |  |  |