



CITY OF
**PALO
ALTO**

**Utilities Department
Resource Management Division**

**Request for Proposal (RFP) Number 154855
for Professional Services**

**Title: A Local Community Solar Program
for the City of Palo Alto**

Pre-proposal webinar:	2:00 p.m. PST Wednesday, July 9, 2014
RFP submittal deadline:	3:00 p.m. PST Tuesday, August 12, 2014
Contract Administrator: E: carolynn.bissett@cityofpaloalto.org	Carolynn Bissett

CITY OF PALO ALTO
PURCHASING/CONTRACT ADMINISTRATION
250 HAMILTON AVENUE
PALO ALTO, CA 94301
(650) 329-2271

**REQUEST FOR PROPOSAL (RFP) NO.154855
FOR PROFESSIONAL SERVICES**

TITLE: A Local Community Solar Program for the City of Palo Alto

1. INTRODUCTION

The City of Palo Alto Utilities (CPAU) is issuing this Request for Proposal (RFP) to create a CPAU-branded Community Solar Program¹. The primary objectives for the program are 1) to help facilitate reaching our City’s target of meeting 4% of our energy needs from local solar energy by 2023 (from 0.7% in 2013), and 2) to give all of our customers – including those who rent and those without sufficient solar access – the opportunity to experience and derive benefit from cost-effective local solar development. CPAU expects to purchase the full output of electricity produced by a 3rd-party owned, operated, and maintained solar facility resulting from the program and all associated attributes, including renewable energy credits (RECs) and environmental benefits. The desired capacity of a community solar facility is 1 to 3 MW (CEC-AC²), to be interconnected to CPAU’s distribution grid.

2. ATTACHMENTS

The attachments below are included with this Request for Proposals (RFP) for your review and submittal (see asterisk):

- Attachment A – Proposer’s Information Form*
- Attachment B – Scope of Services
- Attachment C – Sample Agreement for Professional Services
- Attachment D – Sample Table, Qualifications of Firm Relative to City’s Needs
- Attachment E – Program Cost Structure Spreadsheet (separate)
- Attachment F – Insurance Requirement
- Attachment G – Non-disclosure Agreement
- Attachment H - Software as a Service Security (if applicable)
- Attachment I – Vendor Information Security Assessment (if applicable)
- Attachment J – Sample Power Purchase Agreement (PPA)

The items identified with an asterisk (*) shall be filled out, signed by the appropriate representative of the company and returned with submittal.

¹ The definition of “community solar” for the purposes of this RFP is a solar PV system that provides power and/or financial benefit to multiple community members through a voluntary program.

² The CEC-AC rating standards are based upon 1,000 Watt/m² solar irradiance, 20 degree Celsius ambient temperature, and 1 meter/second wind speed. The CEC-AC Watt rating is lower than the Nameplate rating at Standard Test Conditions (STC). For additional details, see: <http://www.csi-epbb.com/CSI-EPBBCalculatorUserGuide.pdf>.

3. INSTRUCTIONS TO PROPOSERS

3.1 Pre-proposal Teleconference/Webinar

A non-mandatory, pre-proposal webinar will be held Wednesday, July 9, 2014 at 2:00 p.m. PST. All prospective Proposers are strongly encouraged to participate.

Community Solar Program Pre-Proposal Webinar

(GoToMeeting ID: 891-095-109)

1. Click here to join the meeting:
<https://global.gotomeeting.com/meeting/join/891095109>
2. Join the teleconference call:
Dial-in Number: (712) 432-1212; Meeting ID: 430-877-385

3.2 Examination of Proposal Documents

The submission of a proposal shall be deemed a representation and certification by the Proposer that they:

- 3.2.1 Have carefully read and fully understand the information that was provided by the City to serve as the basis for submission of this proposal.
- 3.2.2 Have the capability to successfully undertake and complete the responsibilities and obligations of the proposal being submitted.
- 3.2.3 Represent that all information contained in the proposal is true and correct.
- 3.2.4 Did not, in any way, collude, conspire to agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms or conditions of this proposal.
- 3.2.5 Acknowledge that the City has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by Proposer, and Proposer hereby grants the City permission to make these inquiries, and to provide any and all related documentation in a timely manner.

No request for modification of the proposal shall be considered after its submission on grounds that Proposer was not fully informed to any fact or condition.

3.3 Addenda/Clarifications

Should discrepancies or omissions be found in this RFP or should there be a need to clarify this RFP, questions or comments regarding this RFP must be put in writing and received by the City no later than 5:00 p.m., Tuesday, July 22, 2014. Correspondence shall be e-mailed to carolynn.bissett@cityofpaloalto.org. Responses from the City will be communicated in writing to all recipients of this RFP. Inquiries received after the date and time stated will not be accepted and will be returned to senders without response. All addenda shall become a part of this RFP and shall be acknowledged on the Proposer's Form.

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

3.4 Submission of Proposals

All proposals shall be submitted to:

City of Palo Alto
Purchasing and Contract Administration
250 Hamilton Avenue, Mail Stop MB
Palo Alto, CA 94301

Proposals must be delivered no later than 3:00 p.m. on Tuesday, August 12, 2014. All proposals received after that time will be returned to the Proposer unopened.

The Proposer shall submit six (6) hard copies of its proposal in a sealed envelope, one of which is labeled "Original", addressed as noted above, bearing the Proposer's name and address clearly marked, "RFP NO. 154855 for Professional Services: A Local Community Solar Program for the City of Palo Alto." Also submit proposal in soft copy via CD or Flash Drive. [The use of double-sided paper with a minimum 50% post-consumer recycled content is strongly encouraged. Please do not submit proposals in binders].

3.5 Withdrawal of Proposals

A Proposer may withdraw its **proposal at any time before the expiration of the time for submission of proposals as provided in the RFP by**

delivering a written request for withdrawal signed by, or on behalf of, the Proposer.

3.6 Rights of the City of Palo Alto

This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right to:

- Make the selection based on its sole discretion;
- Reject any and all proposals;
- Issue subsequent Requests for Proposals;
- Postpone opening for its own convenience;
- Remedy technical errors in the Request for Proposals process;
- Approve or disapprove the use of particular subconsultants;
- Negotiate with any, all or none of the Proposers;
- Accept other than the lowest offer;
- Waive informalities and irregularities in the Proposals and/or
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Proposer.

4. PROPOSED TENTATIVE TIMELINE

The tentative RFP timeline is as follows:

RFP TIMELINE	DEADLINE
RFP Issuance	July 1, 2014
Pre-Proposal Webinar	2:00 PM PST, July 9, 2014
Deadline for E-mail Questions	July 22, 2014
Proposals Due	Aug. 12, 2014
Respondents Short-Listed	Aug. 15, 2014
Interviews	Aug. 18-Aug. 22, 2014
Select Finalist	Sept. 8, 2014

5. INFORMATION TO BE SUBMITTED (to be submitted in this order only)

These instructions outline the guidelines governing the format and content of the proposal and the approach to be used in its development and presentation. The intent of the RFP is to encourage responses that clearly communicate the Proposer's understanding of the City's requirements and its approach to successfully provide the products and/or services on time and within budget. Only that information which is essential to an understanding and evaluation of the proposal should be submitted. Items not specifically and explicitly related to the RFP and proposal, e.g. brochures, marketing material, etc. will not be considered in the evaluation.

All proposals shall address the following items in the order listed below and shall be numbered 1 through 8 in the proposal document.

5.1 Chapter 1 – Proposal Executive Summary

This Chapter shall discuss the highlights, key features and distinguishing points of the Proposal. A separate sheet shall include a list of individuals and contacts for this Proposal and how to communicate with them. Limit this Chapter to a total of three (3) pages including the separate sheet.

5.2 Chapter 2 – Profile on the Proposing Firm(s)

This Chapter shall include a brief description of the Prime Proposer's firm size as well as the proposed local organization structure. Include a discussion of the Prime Proposer firm's financial stability, capacity and resources. Include all other firms participating in the Proposal, including similar information about the firms.

This section shall include two years of audited financial statements, including balance sheet, statement of cash flows, and income statement, and Dunn and Bradstreet number on the Proposing Firms(s). If Proposer cannot provide audited financial statement, they shall provide 2 years of complete income tax returns. Additionally, Proposer shall provide proof of sufficient line of credit to perform the proposed work.

Additionally, this section shall include a listing of any lawsuit or litigation and the result of that action resulting from (a) any public project undertaken by the Proposer or by its subcontractors where litigation is still pending or has occurred within the last five years or (b) any type of project where claims or settlements were paid by the consultant or its insurers within the last five years.

5.3 Chapter 3 – Qualifications of the Firm

This Chapter shall include a brief description of the Proposer's and sub-Proposer's qualifications and previous experience on similar or related projects. Provide in a table format (see Sample Table, Attachment D) descriptions of pertinent project experience with other public municipalities and private sector that includes a summary of the work performed, the total project cost, the percentage of work the firm was responsible for, the period over which the work was completed, and the name, title, and phone number of client's to be contacted for references. Give a brief statement of the firm's adherence to the schedule and budget for the project.

This chapter shall include information regarding any relationships with firms and/or individuals who **may** submit proposals in response to the RFPs being developed.

5.4 Chapter 4 – Work Plan or Proposal

This Chapter shall present a well-conceived service plan. Include a full description of major tasks and subtasks. This section of the proposal shall establish that the Proposer understands the City's objectives and work requirements and Proposer's ability to satisfy those objectives and requirements. Succinctly describe the proposed approach for addressing the required services and the firm's ability to meet the City's schedule, outlining the approach that would be undertaken in providing the requested services.

Proposers should also complete the required worksheets included in the attached "Program Cost Structure Worksheet" set forth in Attachment E to the RFP. The completed worksheets should be printed and included as part of Chapter 4. Additionally, a soft copy of the completed worksheets should also be included as part of the proposal submission.

A. Program Design

Respondents must provide a detailed description of the proposed community solar program model. The City will consider all concept programs with the exception of those where the City develops, owns, operates, or maintains the solar PV system. Respondents must include/specify:

- i. Summary & Infographic. Respondent must provide a summary of the overall concept program, including an infographic of all relevant entities and relationships, including but not limited to money flows and contractual

agreements.

- ii. Prior Program Model Success. Respondents must provide a description of completed projects and/or ongoing community solar program experience utilizing the proposed program model, noting examples within California.
- iii. Financing Plan. Respondent must provide a description of the financing plan for the project for the lifetime of the facility. Respondent must include the anticipated source(s) of construction and term financing. Respondent should:
 - a. If applicable, describe how the Federal Investment Tax Credit (“ITC”) established pursuant to the U.S. Internal Revenue Code would apply to the generating facility included in the proposal and CPAU customers/members.
 - b. Describe any other awards, grants, special tax treatment or credits, loan guarantees or other subsidies that are or may be sought in connection with the generating facility(s).
 - c. Describe any subsidies, identify any critical schedule deadlines, and indicate the anticipated likelihood of the Respondent and/or the generating facility(s) receiving such subsidies.
 - d. Explicitly identify the economic and other impacts to the generating facility(s) and the Community Solar Program in the event that a subsidy is not received.
- iv. Marketing & Administration Plan. Respondents must provide a Marketing and Administration plan for the facility. Specify up-front and ongoing funding sources. Specify and assistance the Respondent requests from CPAU in marketing the program. NOTE: CPAU does not guarantee that it will be able to provide the Respondent’s requested assistance in marketing or customer enrollment. However, CPAU will consider the Respondent’s request for assistance and discuss with the Respondent either during the RFP clarification or the contract negotiation phase of the solicitation. CPAU welcomes any samples of the Respondent’s community solar marketing materials that have been used for the marketing of previous successful programs. Note that all marketing and outreach is subject to CPAU staff review and approval. Nothing may be sent out without CPAU approval.
- v. Operations & Maintenance Plan. Respondents must provide an Operations and Maintenance (O&M) plan for the lifetime of the facility, including funding sources for the plan. A brief summary of the prospective

O&M providers' relevant experience should be included.

- vi. *Adherence to Local, State & Federal Laws & Regulations*. Respondents must provide a statement as to their solution's compliance with local, state, and federal laws and regulations, including tax, ownership, and securities laws and regulations. Proposals should be structured to avoid inadvertently offering customer participants anything deemed a "security" under federal and state securities regulations, and respondents should be prepared to document and explain how their project would comply with and/or avoid the applicability of these regulations. Respondents should highlight any pertinent legal issues related to operating and maintaining their community solar model.

B. Program Pricing Structure

CPAU's top priority is to facilitate cost-effective solar PV for our customers and community. Respondents must:

- i. Complete the Program Cost Structure Spreadsheet included in Attachment C, assuming a 1 MW CEC-AC rooftop installation within CPAU service territory. Please note that the spreadsheet contains two worksheets – "Program Costs" and "Participant Costs" – and both must be completed.
 - a. **"Program Costs"** worksheet: In this worksheet, specify each contribution to the overall program cost structure. Identify any embedded assumptions used to calculate the program cost structure under "Description of Assumptions" in the worksheet.

In the overall pricing structure, the Respondent must separate and specify "Set-up Overhead Costs" and "Ongoing Overhead Costs", which should include, for instance, marketing and administrative costs.

- b. **"Participant Costs"** worksheet: Specify the estimated costs to the participant (both up-front and ongoing, where applicable) based on the two prospective scenarios described in Table 1 below. Identify any embedded assumptions used to calculate the costs to participants under "Description of Assumptions" in the worksheet. Assume that the PPA price is fixed and for a 20-year term. Also assume that the PPA price includes the purchase of the electricity, the RECs, environmental benefits, and all other attributes. Scenario 1 assumes that the PPA price is the avoided cost of local solar

energy, or 10.3 ¢/kWh. Scenario 2 assumes that the PPA price is the same as in the Palo Alto CLEAN Program, or 16.5 ¢/kWh. Specify up-front cost to participants on an effective \$/W (CEC-AC) basis. Where applicable, specify units for ongoing cost to participants.

Scenario No.	PPA Price
1	\$0.103/kWh
2	\$0.165/kWh

Table 1

- ii. Identify any other costs for which the Respondent intends to seek compensation from CPAU and/or participants that are not already specified in the Program Cost Structure Spreadsheet
- iii. Respondents must describe, where applicable, any financing option that will be available for participants.
- iv. Respondents must specify all terms and conditions of participation, including any minimum participation period, the mechanism(s) for participants to exit the program, and any associated early termination penalties, if applicable.

C. Supplemental Program Attributes

CPAU will give additional consideration to Respondents with proposed programs that incorporate one or more of the following additional attributes.

- i. Mechanism for donating program participation – and the benefits thereof – to schools and non-profit organizations within CPAU service territory
- ii. Financing option through partnership with a local financial institution
- iii. Public-facing web platform and/or other tools for accessing and visualizing the solar PV facility’s generation

D. Billing/Information Technology (IT) System Integration

Where applicable, the Respondent must provide:

- i. A description of the methods to be supported and used to integrate with CPAU’s billing and IT systems, including an explanation of the data transferred or required from CPAU
- ii. A list of utility billing software programs that the Respondent has integrated with for automated on-bill credits

E. Data Management

CPAU requires authorization for CPAU to have real-time access to data associated with the solar PV facility. The Respondent must provide a description of the planned facility's real-time telemetry and smart meter capability, the mechanism for providing CPAU real-time data access, and a list and description of web portal software, mobile apps, and/or other tools provided to CPAU by the Respondent for monitoring purposes.

F. Tasks, Deliverables, and Completion Dates

Respondent must provide a detailed description of each task, deliverable, and completion date for every stage of the program, including both the solar PV facility development and programmatic development and implementation. The response to this section will form the basis of the Professional Services Agreement's work scope for Phase II; therefore, the Respondent should strive to provide a clear, detailed response to minimize the time that CPAU and the Respondent will spend on contract negotiations. CPAU may require the Respondent to add additional detail to the Respondent's proposal if, in CPAU's judgment, additional detail is necessary to describe the work to be done. The Respondent should assume a start date in January 2015.

G. Solar Resource Availability

Respondent must provide a description of the source(s) of insolation data, any software packages, and/or embedded assumptions that will be used to develop generation estimates.

H. Additional Information

Respondent may provide any additional information the Respondent feels will assist CPAU in their evaluation of the Respondent's proposal.

5.5 Chapter 5 – (Not Applicable)

5.6 Chapter 6 – Project Staffing

This Chapter shall discuss how the Proposer would propose to staff this project. Key project team members shall be identified by name, title and specific responsibilities on the project. An organizational chart for the project team and resumes for key Proposer personnel shall be included. Key personnel will be an important factor considered by the review committee. Changes in key personnel may be cause for rejection of the proposal.

5.7 Chapter 7 – Proposal Exceptions

This Chapter shall discuss any exceptions or requested changes that Proposer has to the City’s RFP conditions, requirements and sample contract. If there are no exceptions noted, it is assumed the Proposer will accept all conditions and requirements identified in the Attachment C – “Sample Agreement for Services.” Items not excepted will not be open to later negotiation.

5.8 Chapter 8 – Proposal Costs Sheet and Rates (see separate Program Cost Structure Spreadsheet)

The fee information is relevant to a determination of whether the fee is fair and reasonable in light of the services to be provided. Provision of this information assists the City in determining the firm’s understanding of the project, and provides staff with tools to negotiate the cost, provide in a table (See separate Cost Structure Spreadsheet).

This Chapter shall include the proposed costs to provide the services desired. Include any other cost and price information, **plus a not-to-exceed amount**, that would be contained in a potential agreement with the City. The hourly rates may be used for pricing the cost of additional services outlined in the Scope of Work.

PLEASE NOTE: The City of Palo Alto does not pay for services before it receives them. Therefore, do not propose contract terms that call for upfront payments or deposits.

6. CONTRACT TYPE AND METHOD OF PAYMENT

“If selected, we expect that the successful Proposer will receive most if not all compensation through participant enrollment in the community solar program, dependent upon program design. An initial set-up fee may be considered. A Sample Agreement of Professional Services is provided as Attachment C. If the Proposer requests an initial set-up fee, the agreement with the successful proposer will include a maximum “not-to-exceed” fee. However, the City reserves the right to consider proposals or execute agreements with successful proposers that modify to this not-to-exceed fee, as necessary, including increasing or reducing the overall amount, in accordance with the Palo Alto Municipal Code and provisions set forth in the agreement reached between the City and any successful Proposer. The not-to-exceed fee shall include direct costs and overhead, such as, but limited to, transportation, communications, subsistence, and materials and any subcontracted items of work.

All proposals must contain a discussion on how the proposals could be scaled up or down, i.e. how the program and participation costs would change if the Proposer developed a community solar facility outside of the desired 1 to 3 MW CEC-AC capacity range. CPAU, at its discretion, may consider developing a community solar program that it deems in line with its goals, even if the proposed solar facility is outside the specified desired capacity range. The Proposer must also discuss how their community solar program could be scaled up in 2-4 years in the future, and the implications of scaling the program on participation costs."

Proposers shall be prepared to accept the terms and conditions of the Agreement, including Insurance Requirements in Attachment F. If a Proposer desires to take exception to the Agreement, Proposer shall provide the following information in Chapter 7 of their submittal package. Please include the following:

- Proposer shall clearly identify each proposed change to the Agreement, including all relevant Attachments.
- Proposer shall furnish the reasons for, as well as specific recommendations, for alternative language.

The above factors will be taken into account in evaluating proposals. Proposals that take substantial exceptions to the proposed Agreement may be determined by the City, at its sole discretion, to be unacceptable and no longer considered for award.

Insurance Requirements

The selected Proposer(s), at Proposer's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements outlined in Attachment F.

All policies, endorsements, certificates and/or binders shall be subject to the approval of the Risk Manager of the City of Palo Alto as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. The selected Proposer agrees to provide the City with a copy of said policies, certificates and/or endorsement upon award of contract.

Non-Disclosure Agreement

The selected proposer(s) shall adhere to the terms and conditions of the Non-Disclosure Agreement provided in Attachment G.

Security and Privacy Terms and Conditions

The selected Proposer(s) may be required to comply with the Software as a Service Security and Privacy Terms and Conditions in Attachment H.

Finalists may be required to complete the Vendor Information Security Assessment (VISA) Questionnaire provided in Attachment I."

7. REVIEW AND SELECTION PROCESS

City staff will evaluate the proposals provided based on the following criteria:

- 7.1 Quality and completeness of proposal;
- 7.2 Quality, performance and effectiveness of the program design;
- 7.3 Proposers experience, including staff experience in developing solar and community solar programs particular within California;
- 7.4 Program Pricing Structure;
- 7.5 Proposer's billing/IT integration solution;
- 7.6 Supplemental program attributes;
- 7.7 Resource impact to City/Utilities staff;
- 7.8 Risk/liability to the City; and
- 7.9 Modifications to Standard Agreements.

The selection committee will make a recommendation to the awarding authority. The acceptance of the proposal will be evidenced by written Notice of Award from the City's Purchasing/Contract Administration Division to the successful Proposer.

8. ORAL INTERVIEWS

Proposers may be required to participate in an oral interview. The oral interview will be a panel comprised of members of the selection committee.

Proposers may only ask questions that are intended to clarify the questions that they are being asked to respond.

Each Proposer's time slot for oral interviews will be determined randomly. Proposers who are selected shall make every effort to attend. If representatives of the City experience difficulty on the part of any Proposer in scheduling a time for the oral interview, it may result in disqualification from further consideration.

9. PUBLIC NATURE OF MATERIALS

Responses to this RFP become the exclusive property of the City of Palo Alto. At such time as the Administrative Services Department recommends to form to the City Manager or to the City Council, as applicable, all proposals received in

response to this RFP becomes a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Proposer as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary". The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Palo Alto may not accept or approve that the information that a Proposer submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City shall provide the Proposer who submitted the information with reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction.

10. COLLUSION

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the Proposer has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

11. DISQUALIFICATION

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- 11.1 Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms or conditions of this proposal;
- 11.2 Any attempt to improperly influence any member of the evaluation team;
- 11.3 Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City;
- 11.4 Evidence of incorrect information submitted as part of the proposal;
- 11.5 Evidence of Proposer's inability to successfully complete the responsibilities and obligation of the proposal; and
- 11.6 Proposer's default under any previous agreement with the City, which results in termination of the Agreement.

12. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

13. GRATUITIES

No person shall offer, give or agree to give any City employee any gratuity, discount or offer of employment in connection with the award of contract by the city. No city employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a city contract.

~ End of Section ~

Attachment A
Proposer's Information Form

PROPOSER (please print):

Name: _____

Address: _____

Telephone: _____ Email: _____

Contact person, title, email, and telephone: _____

Proposer, if selected, intends to carry on the business as (check one):

Individual Joint Venture

Partnership

Corporation

When incorporated? _____

In what state? _____

When authorized to do business in California? _____

Other (explain): _____

ADDENDA

To assure that all Proposers have received each addendum, check the appropriate box(es) below. Failure to acknowledge receipt of an addendum/addenda may be considered an irregularity in the Proposal:

Addendum number(s) received: 1; 2; 3; 4; 5; 6;

Or, _____ No Addendum/Addenda Were Received (**check and initial**).

PROPOSER'S SIGNATURE

No proposal shall be accepted which has not been signed in ink in the appropriate space below:

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

Attachment A – Proposer Information continued...

1. If Proposer is **INDIVIDUAL**, sign here

Date: _____
Proposer's Signature

Proposer's typed name and title

2. If Proposer is **PARTNERSHIP** or **JOINT VENTURE**; at least two (2) Partners shall sign here:

Partnership or Joint Venture Name (type or print)

Date: _____
Member of the Partnership or Joint Venture signature

Date: _____
Member of the Partnership or Joint Venture signature

3. If Proposer is a **CORPORATION**, the duly authorized officer shall sign as follows:

The undersigned certify that he/she is respectively:

_____ and _____
Signature Title

Of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

Corporation Name (type or print)

By: _____ Date: _____

Title: _____

Attachment B

SCOPE OF SERVICES

1. STATEMENT OF INTENT

The City of Palo Alto Utilities (CPAU) is issuing this Request for Proposal (RFP) to create a CPAU-branded Community Solar Program¹. The primary objectives for the program are 1) to help facilitate reaching our City's target of meeting 4% of our energy needs from local solar energy by 2023 (from 0.7% in 2013), and 2) to give all of our customers – including those who rent and those without sufficient solar access – the opportunity to experience and derive benefit from cost-effective local solar development. CPAU expects to purchase the full output of electricity produced by a 3rd-party owned, operated, and maintained solar facility resulting from the program and all associated attributes, including renewable energy credits (RECs) and environmental benefits. The desired capacity of a community solar facility is 1 to 3 MW (CEC-AC²), to be interconnected to CPAU's distribution grid.

2. CITY OF PALO ALTO UTILITIES OVERVIEW

The City of Palo Alto (the "City") is a chartered city located in the San Francisco Bay Area in Northern California. CPAU is a department of City government under the management of the Director of Utilities, who reports to the City Manager. The City Manager reports to the City Council ("Council"). Utility rates for customers are set by Council. The City, through CPAU, simultaneously provides diverse utility services: electricity, natural gas, water, commercial fiber optic, and wastewater collection services. The City serves over 28,000 utility customers, of which over 25,000 are residential. Residential customers account for approximately 20% of annual electric sales. The City's electric peak demand of approximately 180 MW and annual energy sales of approximately 1,000 GWh are served from a variety of resources, including wholesale market purchased power, hydroelectric resources, and wind, solar and landfill gas renewable resources. Palo Alto has a homeownership rate of 58%. Of all housing units, 38% are in multi-unit buildings.

3. PALO ALTO'S SUSTAINABILITY EFFORTS OVERVIEW

The City desires to be a leading city in sustainability efforts and, as such, has set significant goals and developed a number of programs to reduce greenhouse gas (GHG) emissions. Notably, the City established PaloAltoGreen (PAG)³ on Earth Day, April 22nd, 2003. By 2008, PAG had the highest utility

¹ The definition of "community solar" for the purposes of this RFP is a solar PV system that provides power and/or financial benefit to multiple community members through a voluntary program.

² The CEC-AC rating standards are based upon 1,000 Watt/m² solar irradiance, 20 degree Celsius ambient temperature, and 1 meter/second wind speed. The CEC-AC Watt rating is lower than the Nameplate rating at Standard Test Conditions (STC). For additional details, see: <http://www.csi-epbb.com/CSI-EPBBCalculatorUserGuide.pdf>.

³ <http://www.cityofpaloalto.org/pagreen/>

customer participation rate (>20%) of any voluntary renewable electric energy program in the country. The City continues to receive national recognition as a leader in electric green power programs. In December 2007, Palo Alto City Council adopted an aggressive Climate Protection Plan⁴ defining short-term and long-term community GHG emissions goals. Palo Alto is currently on track to meet emissions reductions targets. In March 2013, the City adopted the Carbon Neutral Electric Resource Plan⁵ committing the City to 100% carbon neutral electricity by 2013, making it one of a handful of places on earth using 100% carbon neutral electricity.

The City's sustainability efforts have not been without substantial support for local solar deployment. In 1999, CPAU launched its first solar photovoltaic (PV) system rebate program to encourage residents and businesses to install solar PV systems. Since then, CPAU's menu of solar offerings has expanded and the City has been ranked in the top ten nationally based on the total number of local solar installations per utility customer since 2008 by the Solar Electric Power Association⁶. CPAU's rebate program, PV Partners⁷, along with net energy metering, provides sufficient incentives to promote solar for businesses and homeowners with good solar access. However, staff expects that customers will have reserved all funds under the City's PV Partners program by the end of 2014 and that the City will have reached its net energy metering participation limit of 5% by 2017. Thus the City's current financial incentives for roof-top solar are expected to end within the coming three years.

In addition to incentives for solar installations on the customer side of the meter, Palo Alto also launched a feed-in tariff (FIT) program called Palo Alto Clean Local Energy Accessible Now (Palo Alto CLEAN)⁸. This program offers payment for the electricity generated from Palo Alto solar PV installations where the electricity is not used on site but is sold to the CPAU for the renewable electricity portfolio. Through the CLEAN program, as of May 2014, CPAU is offering to purchase the output of up to 3 MW of new solar systems located in Palo Alto at a price of 16.5 cents per kilowatt hour (¢/kWh) for a 20 year fixed term. As of yet, the City has not received any applications for this program.

Most recently, in April 2014, Council approved the Local Solar Plan⁹, which sets the ambitious target of meeting 4% of the City's energy needs through local solar generation by 2023. The expected PV capacity would need to increase from the current approximately 4.5 MW installed to 23 MW. The Community Solar Program resulting from this RFP would be the first of a series of programs developed under the umbrella of the Local Solar Plan.

4. COMMUNITY SOLAR PROGRAM DEVELOPMENT PROCESS AND TENTATIVE TIMELINE

⁴ <http://www.cityofpaloalto.org/civicax/filebank/documents/9986>

⁵ <http://www.cityofpaloalto.org/civicax/filebank/documents/33220>

⁶ The Solar Electric Power Association's 2012 Utility Solar Rankings can be found here:

<http://www.cityofpaloalto.org/civicax/filebank/documents/34729>.

⁷ <http://www.cityofpaloalto.org/gov/depts/utl/residents/sustainablehome/pvpartners.asp>

⁸ <http://www.cityofpaloalto.org/gov/depts/utl/business/sustainability/clean.asp>

⁹ <https://www.cityofpaloalto.org/civicax/filebank/documents/39981>

CPAU plans to develop a Community Solar Program through a partnership with a vendor in which the vendor will:

1. identify host site(s) for 1-3 MW (CEC-AC) of solar PV within the City's geographic boundaries¹⁰;
2. complete a power purchase agreement (PPA) with CPAU for the output of the solar facilities over a 20 year term, including all electricity, RECs, environmental benefits, and all other attributes associated with the facility;
3. finance, develop, operate and maintain the solar facilities;
4. undertake all marketing and recruitment efforts to enlist participants;
5. work with the City to ensure proper billing arrangements; and,
6. carry out ongoing marketing and administration tasks.

The Community Solar Program development will be carried out in two phases

Phase I: During the first phase, the winning Respondent will identify site(s) to host the City of Palo Alto's first Community Solar Program and secure Letters of Agreement with authorized entities from the host site(s) authorizing the development of the community solar installation at the site(s). The winning Respondent is encouraged to seek any and all viable sites – both non-municipal and municipal – for the purposes of hosting the Community Solar Program solar facility. The site(s) must be within CPAU's service territory and is expected to accommodate approximately 1-3 MW (CEC-AC) of cost-effective solar PV. Please note that the City will not consider net energy metered systems. The project must comply with all applicable permit and environmental requirements. The Letters of Agreement with the host site(s) are subject to City review. Based on the specific host site(s), the finalist and City will then finalize all costs to participants and the PPA¹¹.

Phase II: Contingent upon the successful completion of Phase I and contingent upon Council approval of the program and associated agreements, the winning Respondent will then execute Phase II tasks, which includes all aspects of the solar facility development and the program set-up, marketing, and administration.

CPAU has developed the target schedule shown below for the Community Solar Program development process but reserves the right to revise the target schedule at any time.

¹⁰ <https://www.google.com/fusiontables/DataSource?docid=1ZhRGXMAWNpdBOjvSO7mZusV2c0pHTCB49JiCRY#map:id=3>

¹¹ Please see Attachment A for an example of a PPA for a community solar program.

Description	Deadline
Phase I: Site Selection and Program Agreements	
Winning Respondent Identifies Host Site(s)	Sept. 8 th -Oct. 31 st , 2014
Winning Respondent/Host Site(s) Completes Letter of Agreement	Oct. 31 st , 2014
Winning Respondent/City Completes Power Purchase Agreement	Oct. 31 st , 2014
Winning Respondent Completes Detailed Timeline for Phase II	Oct. 31 st , 2014
<i>Phase I Deliverables Complete</i>	<i>Oct. 31st, 2014</i>
Phase II: Solar Facility Development & Program Launch	
Solar facility development	2015
Program Launch	2015
<i>Phase II Deliverables Complete</i>	<i>2015</i>

5. SCOPE OF WORK

The scope of work is divided into two phases, corresponding to the two phases described in Section 4 above. The tasks and deliverables for both phases will be incorporated into a single Professional Services Agreement, which will be negotiated after the winning Respondent receives the Notice of Award from the City's Purchasing Department but prior to the start of work¹².

CPAU invites information from all qualified and experienced potential Respondents who can execute on the following tasks. Please note that all resultant deliverables are subject to City staff review.

Phase I: Site Selection and Program Agreements

Tasks

1. Identify site(s) to host the City of Palo Alto's first community solar program. The site(s) must be within the City of Palo Alto Utilities service territory and is/are expected to accommodate approximately 1-3 MW (CEC-AC) of cost-effective solar PV.
2. Finalize the PPA with the City
3. Complete a detailed timeline for all Phase II work relating to the solar facility development and program set-up, marketing, and administration.

Deliverables

1. Letter of Agreement(s) with authorized entities from the host site(s) authorizing the development of the community solar installation at the site(s)
2. Completed Power Purchase Agreement (subject to Council approval)
3. Detailed Phase II Timeline

Phase II: Solar Facility Development and Program Launch

Phase II is contingent upon the successful completion of Phase I. The specific tasks and deliverables for Phase II relate to the winning Respondent's proposed program outlined in the Proposal Response and will be negotiated prior to the start of work.

¹² Please see Attachment C for the City's standard Professional Services Agreement.

6. INTERCONNECTION REQUIREMENTS

CPAU will only consider generating facilities within CPAU's service territory that are able to interconnect and deliver power to CPAU's distribution system. Respondents must enter into an Interconnection Agreement with CPAU for a site prior to the delivery of any energy from the generation facility¹³.

¹³ Please see the City's Rule and Regulation 27 "Generating Facility Interconnections" for more information: <http://www.cityofpaloalto.org/civicax/filebank/documents/28893>.

ATTACHMENT C – SAMPLE AGREEMENT

CITY OF PALO ALTO CONTRACT NO.
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
FOR PROFESSIONAL SERVICES

This Agreement is entered into on this _____ day of _____, (“Agreement”) by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and _____, a _____, located at _____ (“CONSULTANT”).

RECITALS

The following recitals are a substantive portion of this Agreement.

- A. CITY intends to _____ (“Project”) and desires to engage a consultant to _____ in connection with the Project (“Services”).
- B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.
- C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit “A”, attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in Exhibit “A” in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM.

The term of this Agreement shall be from the date of its full execution through _____ unless terminated earlier pursuant to Section 19 of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE.

Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit “B”, attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall

not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A”, including both payment for professional services and reimbursable expenses, shall not exceed Dollars (\$). In the event Additional Services are authorized, the total compensation for Services, Additional Services and reimbursable expenses shall not exceed Dollars (\$). The applicable rates and schedule of payment are set out in Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described in Exhibit “A”.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT’s billing rates (set forth in Exhibit “C-1”). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City’s project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT shall correct, at no cost to CITY, any and all errors, omissions, or ambiguities in the work product submitted to CITY, provided CITY gives notice to CONSULTANT. If CONSULTANT has prepared plans and specifications or other design documents to construct the Project, CONSULTANT shall be obligated to correct any and all errors, omissions or ambiguities discovered prior to and during the course of construction of the Project. This obligation shall survive termination of the Agreement.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of the CITY's stated construction budget, CONSULTANT shall make recommendations to the CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of the CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT's obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING.

Option A: No Subcontractor: CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

Option B: Subcontracts Authorized: Notwithstanding Section 11 above, CITY agrees that subconsultants may be used to complete the Services. The subconsultants authorized by CITY to perform work on this Project are:

CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the city manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign _____ as the _____ to have supervisory responsibility for the performance, progress, and execution of the Services and _____ as the project _____ to represent CONSULTANT during the day-to-day work

on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY's project manager. CONSULTANT, at CITY's request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property.

The City's project manager is _____, _____ Department, _____ Division, _____ Palo Alto, CA 94303, Telephone: _____. The project manager will be CONSULTANT's point of contact with respect to performance, progress and execution of the Services. The CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT's records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an "Indemnified Party") from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements ("Claims") resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT's services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in

full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best's Key Rating Guide ratings of A-VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY's Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days' notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT's receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY's Purchasing Manager during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such

materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, and 25.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
 City of Palo Alto
 Post Office Box 10250
 Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the project director
 at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a "Consultant" as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure

documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS.

CONSULTANT shall comply with the City's Environmentally Preferred Purchasing policies which are available at the City's Purchasing Department, incorporated by reference and may be amended from time to time. CONSULTANT shall comply with waste reduction, reuse, recycling and disposal requirements of the City's Zero Waste Program. Zero Waste best practices include first minimizing and reducing waste; second, reusing waste and third, recycling or composting waste. In particular, Consultant shall comply with the following zero waste requirements:

- All printed materials provided by Consultant to City generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by the City's Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable based inks.
- Goods purchased by Consultant on behalf of the City shall be purchased in accordance with the City's Environmental Purchasing Policy including but not limited to Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Office.
- Reusable/returnable pallets shall be taken back by the Consultant, at no additional cost to the City, for reuse or recycling. Consultant shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. NON-APPROPRIATION

24.1. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This section shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

SECTION 25. MISCELLANEOUS PROVISIONS.

25.1. This Agreement will be governed by the laws of the State of California.

25.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

25.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

25.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral.

This document may be amended only by a written instrument, which is signed by the parties.

25.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

25.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

25.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

25.8 If, pursuant to this contract with CONSULTANT, City shares with CONSULTANT personal information as defined in California Civil Code section 1798.81.5(d) about a California resident ("Personal Information"), CONSULTANT shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform City immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. CONSULTANT shall not use Personal Information for direct marketing purposes without City's express written consent.

25.9 The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

25.10 This Agreement may be signed in multiple counterparts, which shall, when executed by all the parties, constitute a single binding agreement

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

CONSULTANT

City Manager

By:_____

Name:_____

Title:_____

APPROVED AS TO FORM:

Senior Deputy City Attorney

Attachment D
 SAMPLE TABLE FORMAT
 QUALIFICATIONS OF FIRM RELATIVE TO CITY'S NEEDS

Project Name	Client	Description of work performed	Total Project Cost	Percentage of work firm as responsible for	Period work was completed	Client contact information*
<p>Did your firm meet the project schedule (Circle one) : Yes No</p> <p>Give a brief statement of the firm's adherence to the schedule and budget for the project:</p>						
<p>Did your firm meet the project schedule (Circle one) : Yes No</p> <p>Give a brief statement of the firm's adherence to the schedule and budget for the project:</p>						
<p>Did your firm meet the project schedule (Circle one) : Yes No</p> <p>Give a brief statement of the firm's adherence to the schedule and budget for the project:</p>						
<p>Did your firm meet the project schedule (Circle one) : Yes No</p> <p>Give a brief statement of the firm's adherence to the schedule and budget for the project:</p>						

*Include name, title and phone number.

Attachment E

Program Cost Structure Spreadsheet

The Program Cost Structure Spreadsheet is provided to facilitate Proposers' submission in response to the RFP. Proposers are required to complete Tabs 1 and 2 within the Excel workbook.

Please follow the link to download the Program Cost Structure Spreadsheet – RFP 154855.

<http://www.cityofpaloalto.org/gov/depts/asd/solicitations.asp>

Attachment "F"
INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, **AFFORDED BY COMPANIES WITH AM BEST'S KEY RATING OF A-VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA. PLEASE EMAIL CERTIFICATES TO: insurancecerts@cityofpaloalto.org**

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

REQUIRED	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER'S COMPENSATION EMPLOYER'S LIABILITY	STATUTORY STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$1,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY	\$1,000,000	\$1,000,000
		- EACH PERSON	\$1,000,000	\$1,000,000
		- EACH OCCURRENCE	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
	PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE	ALL DAMAGES	\$1,000,000	
YES	THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS' COMPENSATION, EMPLOYER'S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSUREDS CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

- I. INSURANCE COVERAGE MUST INCLUDE:
 - A. A PROVISION FOR A WRITTEN THIRTY DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND
 - B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.
 - C. DEDUCTIBLE AMOUNTS IN EXCESS OF \$5,000 REQUIRE CITY'S PRIOR APPROVAL.
- II. CONTACTOR MUST SUBMIT CERTIFICATE(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE.
- III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO "ADDITIONAL INSUREDS"
 - A. PRIMARY COVERAGE
WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSUREDS.
 - B. CROSS LIABILITY

Attachment "F"
INSURANCE REQUIREMENTS

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSURED UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSURED, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.
2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

NOTICES SHALL BE MAILED TO:

**PURCHASING AND
CONTRACT ADMINISTRATION
CITY OF PALO ALTO
P.O. BOX 10250
PALO ALTO, CA 94303.**

ATTACHMENT G
OBLIGATIONS REGARDING NON-DISCLOSURE
OF CONFIDENTIAL INFORMATION

1. PURPOSE

- 1.1 In its performance of Services under this Agreement, CONSULTANT and its directors, officers, partners, managers, members, employees, advisors, agents, sub-contractors and other representatives of CONSULTANT and their subsidiaries and affiliates, including, without limitation, attorneys, accountants, consultants, and financial advisors (collectively, the “Representatives”) may acquire and otherwise gain access to Confidential Information, as defined in Section 1 of this Exhibit “E”, which is exempt from public disclosure under the California Public Records Act, Cal. Gov. Code section 6250 *et seq.*
- 1.2 In accordance with the terms and conditions of this Agreement, CONSULTANT agrees to take reasonable precautions to ensure that Confidential Information of CITY, as defined in this Exhibit, is safeguarded against disclosure to unauthorized employees or third parties.
- 1.3 CITY would not share or disclose any Confidential Information to CONSULTANT but for the legal protections against unauthorized disclosures intended to be afforded by California law and this Agreement, and is relying on this Agreement in disclosing such Confidential Information to CONSULTANT.

2. CONFIDENTIAL INFORMATION, DEFINED

- 2.1 “Confidential Information” means any and all information which is of a non-public, proprietary or confidential nature, in any form or medium, written or oral, (whether prepared by the CITY, its employees, or agents, and irrespective of the form or means of communication and whether it is labeled or otherwise identified as confidential) that is furnished to CONSULTANT by the CITY.
- 2.2 Exceptions. “Confidential Information” shall exclude (and the CONSULTANT shall not be under any obligation to maintain in confidence) any information (or any portion thereof) disclosed to CONSULTANT by CITY to the extent that such information:
 - (a) is in the public domain at the time of disclosure; or
 - (b) at the time of or following disclosure, becomes generally known or available through no act or omission on the part of CITY; or
 - (c) is known, or becomes known, to CONSULTANT from a source other than CITY or its Representatives (as defined herein), provided that disclosure

by such source is not in breach of a confidentiality agreement CITY; or

- (d) is independently developed by CONSULTANT without violating any of its obligations under this Agreement or any other agreement between the Parties; or
- (e) is legally required to be disclosed by judicial or other governmental action; provided, however, that prompt notice of such judicial or other governmental action shall have been first given to CITY, which shall be afforded the opportunity to exhaust all reasonable legal remedies to maintain the Confidential Information in confidence; or
- (f) is permitted to be disclosed by a formal written agreement executed by and between the Parties.

Specific information shall not fall within the exceptions of Sections (a) through (f) above merely because it is embraced by more general information falling within such exceptions.

3. CALIFORNIA PUBLIC RECORDS ACT

- 3.1 CONSULTANT acknowledges that CITY is a public agency subject to the requirements of the California Constitution, Article 1, Section 3 and California Public Records Act Cal. Gov. Code section 6250 *et seq.* CONSULTANT acknowledges that CITY may submit to or otherwise provide access to CONSULTANT Confidential Information that CITY or any utility customer of CITY considers to be protected from disclosure pursuant to exemptions granted by applicable California law.
- 3.2 Whether or not there is a request or demand of any third party not a Party to this Agreement (the "Requestor") for the production, inspection and/or copying of information designated by CITY as Confidential Information, CONSULTANT shall be solely responsible for taking whatever legal steps CITY deems necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor (including the release of such information by CONSULTANT).
- 3.3 Under no circumstances will CONSULTANT be permitted to comply with the Requestor's demand for disclosure of such Confidential Information that CITY deems confidential and not intended for disclosure to the general public, or otherwise publicly disclose the Confidential Information to any person not authorized by law to receive such information.

4. CONFIDENTIAL INFORMATION DESIGNATION

- 4.1 As practicable, the Confidential Information shall be marked with the words “Confidential” or “Confidential Material” or with words of similar import. CITY shall instruct CONSULTANT that information of a financial, personal, or proprietary nature being conveyed orally and intended by CITY to be covered by the terms of this Agreement, is deemed Confidential Information. To the extent possible, CITY shall endeavor to mark any electronic document intended to be covered by the terms of this Agreement with the words “Confidential” or similar words, or, if that is not possible or would be exceedingly difficult, CITY shall notify CONSULTANT (for example, by covering e-mail transmitting the electronic document) that the electronic document is Confidential Information.
- 4.2 CITY’s failure, for whatever reason, to mark any material at the time it is produced to CONSULTANT, or to notify it that oral or electronic material is Confidential Information at the time it is provided, shall not take the material out of the coverage of this Agreement for all time, and CONSULTANT shall treat the material as Confidential Information once CITY has notified it that the material is to be covered by this Agreement.

5. DUTY TO KEEP CONFIDENTIAL

- 5.1 CONSULTANT agrees to maintain as confidential, to the extent permitted or required by applicable law, all Confidential Information furnished or otherwise made available to the CONSULTANT, or its Representatives by CITY. CONSULTANT acknowledges that the Confidential Information is proprietary and a valuable asset of CITY and agrees that CONSULTANT shall take reasonable precautions to ensure that such Confidential Information is safeguarded against disclosure to unauthorized employees, Representatives or third parties.
- (a) CONSULTANT shall use the Confidential Information solely as permitted by the Contract and shall not sell Confidential Information or otherwise disclose such Confidential Information under any circumstances and without the prior written consent of CITY. CONSULTANT shall not disclose the Confidential Information, or portions thereof, to any of its Representatives, except to those who need to know such information for the purpose of advising CITY and who agree to the terms of this Agreement.
- (b) CONSULTANT agrees that any of the Representatives to whom the Confidential Information is disclosed will be informed of the confidential or proprietary nature of such information and of CONSULTANT’s obligations under this Agreement. CONSULTANT is responsible for any use of Confidential Information by any of its Representatives.
- (c) CONSULTANT shall ensure that:

- (i) any Representatives with whom CONSULTANT shares such Confidential Information or who acquire knowledge of such Confidential Information from or through CONSULTANT regard and treat such Confidential Information of CITY as strictly confidential and wholly owned by CITY, and
 - (ii) CONSULTANT shall not (and CONSULTANT shall ensure that any Representatives with whom CONSULTANT shares such Confidential Information or who acquire knowledge of such Confidential Information from or through CONSULTANT do not) for any reason, in any fashion, either directly or indirectly, sell, lend, lease, distribute, license, give, transfer, assign, show, disclose, disseminate, or otherwise communicate any such Confidential Information to any third party, or misappropriate, reproduce, copy or use any such Confidential Information, in either case, for any purpose other than in accordance with this Agreement.
- (d) If CONSULTANT or any of its Representatives are requested or required to disclose any Confidential Information by law, regulation, the applicable rules of any national securities exchange or other market or reporting system, oral questions, interrogatories, requests for information or other documents in legal proceedings, subpoena, civil investigative demand or any other similar process, CONSULTANT shall provide CITY with prompt written notice of any such request or requirement so that CITY has an opportunity to seek a protective order via writ of mandate or other appropriate remedy, or waive compliance with the provisions of this Agreement.
- (e) If CITY waives compliance with the provisions of this Agreement with respect to a specific request or requirement, CONSULTANT and its Representatives shall disclose only that portion of the Confidential Information that is expressly covered by such waiver and which is necessary to disclose in order to comply with such request or requirement. CONSULTANT and its Representatives shall cooperate in a reasonable manner with CITY in attempting to preserve the confidentiality of the Confidential Information.
- (f) If (in the absence of a waiver by CITY) CONSULTANT has not secured a protective order or other appropriate remedy despite attempting to do so, and CONSULTANT or one of its Representatives is nonetheless then legally compelled to disclose any Confidential Information, CONSULTANT or such Representative may, without liability hereunder, disclose only that portion of the Confidential Information that is necessary to be disclosed. In the event that disclosure is made in accordance with this subsection, CONSULTANT shall exercise, and cause its

Representatives to exercise, reasonable efforts to preserve the confidentiality of the Confidential Information, including obtaining reliable assurance at the sole expense of CONSULTANT that confidential treatment shall be accorded any Confidential Information so furnished.

6. NO LIABILITY, RELEASE, OR OBLIGATION

Except as set forth in any formal written agreement executed by and between the parties, neither CONSULTANT nor any of its Representatives shall be entitled to rely on any statement, promise, agreement or understanding, whether written or oral, or any custom, usage of trade, course of dealing or conduct. In addition, each Party understands and acknowledges that neither CITY nor any of its representatives, employees or agents makes any representation or warranty, express or implied, as to the accuracy or completeness of any Confidential Information, and that neither CITY nor any of its representatives, employees or agents shall have any liability whatsoever to CONSULTANT or to any of its Representatives relating to or resulting from the Confidential Information or any errors therein or omissions therefrom.

7. REMEDIES

In recognition that an irreparable injury may result to CITY, if any provision of this Exhibit E is violated, CONSULTANT agrees that upon any breach or threatened breach of any provision of this Exhibit E by CONSULTANT or any of its Representatives, that CITY shall be entitled to seek an injunction or specific performance prohibiting such conduct or any other relief as may be permitted by law.

8. RETURN OF CONFIDENTIAL INFORMATION

8.1 CONSULTANT shall have access to the Confidential Information provided by CITY only during the term of this Agreement, and shall return all Confidential Information provided under this Agreement upon its termination, or at any time upon request of CITY, as described in Section 8.2 of this Exhibit E.

8.2 CITY may at any time request that CONSULTANT promptly return to CITY or destroy any or all documents or other materials containing Confidential Information of CITY, and CONSULTANT shall immediately comply with any such request. Notwithstanding the return or destruction of the Confidential Information as contemplated by this section 8 of this Exhibit E, the CONSULTANT and its Representatives will continue to be bound by the terms of this Agreement with respect thereto, including all obligations of confidentiality.

9. SURVIVAL

CONSULTANT's obligations of confidentiality and non-circumvention under this Exhibit E shall survive the termination of this Agreement.

10. OWNERSHIP RIGHTS NOT CREATED

The transfer of Confidential Information hereunder shall not be construed as granting a license of any kind or any right of ownership in the Confidential Information to CONSULTANT.

11. NO OBLIGATION TO DISCLOSE

Nothing in this Section shall obligate CITY to disclose specific Confidential Information to CONSULTANT. Such disclosures shall be at the CITY's sole discretion.

ATTACHMENT H**SOFTWARE AS A SERVICE SECURITY AND PRIVACY
TERMS AND CONDITIONS**

This Exhibit shall be made a part of the City of Palo Alto's Professional Services Agreement or any other contract entered into by and between the City of Palo Alto (the "City") and _____ (the "Consultant") for the provision of Software as a Service to the City (the "Agreement").

In order to assure the privacy and security of the personal information of the City's customers and people who do business with the City, including, without limitation, vendors, utility customers, library patrons and other individuals and businesses, who are required to share such information with the City, as a condition of receiving services from the City or selling goods and services to the City, including, without limitation, the Software as a Service services provider (the "Consultant") and its subcontractors, if any, including, without limitation, any Information Technology ("IT") infrastructure services provider, shall design, install, provide, and maintain a secure IT environment, described below, while it renders and performs the Services and furnishes goods, if any, described in the Statement of Work, Exhibit B, to the extent any scope of work implicates the confidentiality and privacy of the personal information of the City's customers. The Consultant shall fulfill the data and information security requirements (the "Requirements") set forth in Part A below.

A "secure IT environment" includes: (a) the IT infrastructure, by which the Services are provided to the City, including connection to the City's IT systems; (b) the Consultant's operations and maintenance processes needed to support the environment, including disaster recovery and business continuity planning; and (c) the IT infrastructure performance monitoring services to ensure a secure and reliable environment and service availability to the City. "IT infrastructure" refers to the integrated framework, including, without limitation, data centers, computers, and database management devices, upon which digital networks operate.

In the event that, after the Effective Date, the Consultant reasonably determines that it cannot fulfill the Requirements, the Consultant shall promptly inform the City of its determination and submit, in writing, one or more alternate countermeasure options to the Requirements (the "Alternate Requirements" as set forth in Part B), which may be accepted or rejected in the reasonable satisfaction of the Information Security Manager (the "ISM").

Part A. Requirements:

The Consultant shall at all times during the term of any contract between the City and the Consultant:

- (a) Appoint or designate an employee, preferably an executive officer, as the security liaison to the City with respect to the Services to be performed under this Agreement.

- (b) Provide a full and complete response to the City's Supplier Security and Privacy Assessment Questionnaire (the "Questionnaire") to the ISM, and also report any major non-conformance to the Requirements, as and when requested. The response shall include a detailed implementation plan of required countermeasures, which the City requires the Consultant to adopt as countermeasures in the performance of the Services. In addition, as of the annual anniversary date of this Agreement the Consultant shall report to the City, in writing, any major changes to the IT infrastructure.
- (c) Have adopted and implemented information security and privacy policies that are documented, are accessible to the City and conform to ISO 27001/2 – Information Security Management Systems (ISMS) Standards. See the following:
http://www.iso.org/iso/home/store/catalogue_tc/catalogue_detail.htm?csnumber=42103
http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=50297
- (d) Conduct routine data and information security compliance training of its personnel that is appropriate to their role.
- (e) Develop and maintain detailed documentation of the IT infrastructure, including software versions and patch levels.
- (f) Develop an independently verifiable process, consistent with industry standards, for performing professional and criminal background checks of its employees that (1) would permit verification of employees' personal identity and employment status, and (2) would enable the immediate denial of access to the City's confidential data and information by any of its employees who no longer would require access to that information or who are terminated.
- (g) Provide a list of IT infrastructure components in order to verify whether the Consultant has met or has failed to meet any objective terms and conditions.
- (h) Implement access accountability (identification and authentication) architecture and support role-base access control ("RBAC") and segregation of duties ("SoD") mechanisms for all personnel, systems and software used to provide the Services. "RBAC" refers to a computer systems security approach to restricting access only to authorized users. "SoD" is an approach that would require more than one individual to complete a security task in order to promote the detection and prevention of fraud and errors.
- (i) Assist the City in undertaking annually an assessment to assure that: (1) all elements of the Services' environment design and deployment are known to the City, and (2) it has implemented measures in accordance with industry best practices applicable to secure coding and secure IT architecture.
- (j) Provide and maintain secure intersystem communication paths that would ensure the confidentiality, integrity and availability of the City's information.
- (k) Deploy and maintain IT system upgrades, patches and configurations conforming to current patch and/or release levels by not later than one (1) week after its date of release. Emergency security patches must be installed within 24 hours after its date of release.
- (l) Provide for the timely detection of, response to, and the reporting of security incidents, including on-going incident monitoring with logging.
- (m) Notify the City within one (1) hour of detecting a security incident that results in the unauthorized access to or the misuse of the City's confidential data and information.
- (n) Inform the City that any third party service provider(s) meet(s) all of the Requirements.

- (o) Perform security self-audits on a regular basis and not less frequently than on a quarterly basis, and provide the required summary reports of those self-audits to the ISM on the annual anniversary date or any other date agreed to by the Parties.
- (p) Accommodate, as practicable, and upon reasonable prior notice by the City, the City's performance of random site security audits at the Consultant's site(s), including the site(s) of a third party service provider(s), as applicable. The scope of these audits will extend to the Consultant's and its third party service provider(s)' awareness of security policies and practices, systems configurations, access authentication and authorization, and incident detection and response.
- (q) Cooperate with the City to ensure that to the extent required by applicable laws, rules and regulations, the Confidential Information will be accessible only by the Consultant and any authorized third party service provider's personnel.
- (r) Perform regular, reliable secured backups of all data needed to maximize availability of the Services.
- (s) Maintain records relating to the Services for a period of three (3) years after the expiration or earlier termination of this Agreement and in a mutually agreeable storage medium. Within thirty (30) days after the effective date of expiration or earlier termination of this Agreement, all of those records relating to the performance of the Services shall be provided to the ISM.
- (t) Maintain the Confidential Information in accordance with applicable federal, state and local data and information privacy laws, rules and regulations.
- (u) Encrypt the Confidential Information before delivering the same by electronic mail to the City and or any authorized recipient.
- (v) Unless otherwise addressed in the Agreement, shall not hold the City liable for any direct, indirect or punitive damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the City's IT environment, including, without limitation, IT infrastructure communications.

Part B. Alternate Requirements:

Vendor Information Security Assessment (VISA) Questionnaire

Purpose: This Vendor Information Security Assessment (VISA) Questionnaire requests information concerning a Cloud Service Provider (the Vendor), which intends to provide to the City of Palo Alto (the City) any or all of the following services: Software as a Service (SaaS); Platform as a Service (PaaS); and Infrastructure as a Service (IaaS).

Note/Instructions:

- SaaS, PaaS and IaaS are each a 'cloud' servicing model, in which software and database applications, computer network infrastructure and/or computer hardware/software platforms is/are hosted by the Vendor and made available to customers interconnected to a network, typically to the Internet.
- This Questionnaire is for the sole use of the intended Vendor and may contain confidential information of individuals and businesses collected, stored, and used by the City. Any unauthorized collection, storage, use, review or distribution may be prohibited by California and/or Federal laws. If you are not the intended recipient of this Questionnaire, please contact the sender by e-mail and destroy all copies of the Questionnaire.
- The Vendor shall provide answers to the questions or information to the requests provided below.
- In the event that the Vendor determines that it cannot meet the City's security and/or privacy requirements, the Vendor may submit a request for an exception to the City's requirements and propose alternative countermeasures to address the risks addressed in this Questionnaire. The City's Information Security Manager (ISM) may approve or reject the exception request, depending on the risks associated with the exception request.
- Upon receipt of the Vendor's response, the ISM will conduct a security risk assessment, using the following scoring methodology:

A = Meets completely.

B = Partially meets. The Vendor may be required to provide additional requested information.

C = Doesn't meet. The Vendor may be required to provide missing/additional detail.

Vendor Information:

Vendor Organization Name	
Address	
Information Security Contact Person Name	
Email	
Phone	
Date this Questionnaire Completed	

1.0 BUSINESS PROCESS AND DATA EXCHANGE REQUIREMENTS

#	Question	Response from the Vendor	Score	Additional Information/Clarification Required from the Vendor
1.1	Please provide a detailed description of the Vendor's business process that will be supported by it, as this relates to the proposed requirements of the City's RFP or other Business Requirements Document (BRD)			
1.2	Has the Vendor adopted and implemented information security and privacy policies that are documented, are accessible to the City, and conform to ISO 27001/2 – Information Security Management Systems (ISMS) Standards?			
1.3	<p>What data exchange will occur between the City and the Vendor? What data will be stored at the Vendor's or other third party's data storage location? (Provide data attributes with examples)</p> <p>Example: (Payment Card Information, Social Security Number, Driving License number Patrons Name, Address, telephone etc.), which are examples of</p>			

	personal information, the privacy of which are protected by California constitutional and statutory law.			
1.4	In the event that the Vendor is required to store Private Information (PI), Personally Identifiable Information (PII), or Sensitive Information (SI) (collectively, the Information) about individuals in the service provider's business systems, how does the Vendor maintain the confidentiality of the Information in accordance with applicable federal, state and local data and information privacy laws, rules and regulations?			
1.5	What mechanism and/or what types of tool(s) will be used to exchange data between the City and The Vendor? Example: (VPN, Data Link, Frame Relay, HTTP, HTTPS, FTP, FTPS, etc.)			
1.6	What types of data storage (work in progress storage and backup storage) are present or will be required at the Vendor's site? Example: (PCI Credit Card Info, SSN, DLN, Patrons Name, Address, telephone etc.)			
1.7	Is e-mail integration required between the City and the Vendor?			

	Example: The provision of services may require the City to provide the Vendor with an e-mail account on the City's e-mail server.			
1.8	Has the Vendor ever been subjected to either an electronic or physical security breach? Please describe the event(s) and the steps taken to mitigate the breach(es). What damages or exposure resulted? Are records of breaches and issues maintained and will these records be available for inspection by the City?			
1.9	Does the Vendor maintain formal security policies and procedures to comply with applicable statutory or industry practice requirements/standards? Are records maintained to demonstrate compliance or certification? Does the Vendor allow client audit of these records? NOTE: PLEASE PROVIDE SUPPORTING DOCUMENTATION.			
2.0	What are the internet and the browser security configurations for the cloud application? What security standards and requirements does the Vendor maintain to ensure application security at the user interface? (A set of detailed documentation should be provided to support the compliance.			

2.0 APPLICATION/SOLUTION CONFIGURATION

#	Question	Response from The Vendor	Score	Additional Information/Clafication Required from The Vendor
2.1	What is the name of the application(s) that the Vendor will host in order to provide services to the City? (List all)			
2.2	What functionality will be provided to the City's employees or the City's customers or other recipient of City services through the application?			
2.3	Will the Vendor use a subcontractor and/or a third party service provider? (List all). If yes, then what data privacy and information security agreements are in place between the Vendor and any subcontractor/third party to ensure appropriate and accountable treatment of information? Note the City requires each subcontractor and/or third party to complete this Questionnaire.			
2.4	What is the Vendor's application(s) hosting hardware and software platform? Provide a detailed description, including SP [what's this, Raj?] and a patch or security applications in use.			

	Example: Windows or Unix Operating System (OS) and other detail.			
2.5	How does the Vendor's application and database architecture manage or promote segregation of the City's data (related to its function as a local government agency) from the data of individuals providing services to or receiving services from the City?			
2.6	Describe the Vendor's server and network infrastructure. Please provide server and network infrastructure deployment topology, including data flow architecture including but not limited to security management applications, firewalls, etc.			
2.7	Please provide a detail proposed solution that will be developed as a part of the Vendor's implementation to support this project. (For example detailed solution architecture, secured data flow to support business processes, etc.).			

3.0 DATA PROTECTION

#	Question	Response from the Vendor	Score	Additional Information/Clafication Required the Vendor
3.1	What will be the medium of data exchange between the City and Vendor?			
3.2	How will the data be kept secure during the data exchange process? Example: (VPN, Data Link, Frame Relay, HTTP, HTTPS, FTP, FTPS, etc.)			
3.3	How will the City's data be kept physically and logically secure at the Vendor's preferred storage location? Example: Locked storage, Digitally, Encrypted etc.			
3.4	What application level protections are in place to prevent the Vendor's or a subcontractor/third party's staff member from viewing unauthorized confidential information? For example, encryption, masking, etc.			
3.5	What controls does the Vendor exercise over the qualification and performance of its team? Of their subcontractor/third party's team(s)? (For example criminal background verification prior to employment, providing security training after employment and managing Role Based Access Control (RBAC) during employment and network			

	and application access termination upon employment termination.			
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4.0 DATA BACK-UP

#	Question	Response	Score	COPA's Security Assessment
4.1	What are the Vendor's method(s) used to keep data secured during the data backup process?			
4.2	Is the Vendor's encryption technology used to encrypt whole or selective data?			
4.3	What types of storage media will the Vendor use for data backup purposes? For example, Tape, Hard Disk Drive or any other devices.			
4.4	Are the Vendor's backup storage devices encrypted? If 'yes,' please provide encryption specification, with type of encryption algorithm and detail process of encryption handling. If 'no,' provide a detailed description (with process, tools and technology) to keep data secured during the back-up process.			

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5.0 DATA RETENTION

#	Question	Response from the Vendor	Score	Additional Information/Clafication Required from the Vendor
5.1	What is the Vendor's retention period of the backed up data? The data retention process shall comply with the City's data retention policy. [does the Vendor know what this is?]			
5.2	Are the data back-up storage media at the Vendor's location or other third party location?			
5.3	If the Vendor's backup storage devices are stored with another company, please provide: <ul style="list-style-type: none"> a. Company Name: b. Address: c. Contact person detail (Phone and Email): d. What contractual commitments are in place to guarantee security 			

	performance from these vendors			
5.5	What is the media transfer process (i.e. The lock box process used to send tapes off-site)?			
5.6	Who has access to the data storage media lockbox(es)? (Provide Name and Role)			
5.7	Who on the Vendor's staff or subcontractor/third party's staff is/are authorized to access backup data storage media? (Provide Name and Role)			
5.8	What is the backup data storage media receipt and release authorization process(es)? (Please submit a soft copy of the process)			

6.0 ACCOUNT PROVISIONING AND DE-PROVISIONING (The Vendor must receive formal pre-authorization from the City's Information Security Manager prior to provisioning and de-provisioning of application access account).

#	Question	Response from the Vendor	Score	Additional Information/Clafication Required from the Vendor
6.1	What is the account provisioning/removal process? Example: how are users accounts created and			

	managed?)			
6.2	What is the account deprovisioning/removal process? Example: how are users accounts created and managed?)			
6.3	How will the City's employees gain access to required application(s)?			
6.4	Does the application(s) have the capability to restrict access only from the City's WAN (Wide Area Network)?			

7.0 PASSWORD MANAGEMENT

#	Question	Response from the Vendor	Score	Additional Information/Clafication Required from the Vendor
7.1	What will be the policy and/or procedures for the logging, authentication, authorization and password management scheme? (Please provide a			

	soft copy of the process)			
7.2	Where will the login and password credentials be stored?			
7.3	Are the password credentials stored with encryption? If 'yes,' please provide encryption scheme detail.			
7.4	<p>The Vendor's application must comply with the following password requirements. Does the Vendor's application meet these requirements?</p> <ol style="list-style-type: none"> 1. First time password must be unique to an individual and require the user to change it upon initial login. 2. If the password is sent via plain text e-mail to the City employee to mitigate security exposure. 3. The City requires first time password to have a time-out capability of no more than 7 days. 4. The e-mail notification must not be copied to 			

	<p>anyone except the user.</p> <ol style="list-style-type: none"> 5. The permanent/long term password must be changed frequently (at least TWICE a year) 6. E-mail notification must be sent to the user whenever the password has been updated. 7. User should not be able to view data or conduct business unless an initial password has been updated with a different password. 8. The Vendor shall inform the City's users that, when a new password is created, the user shall not use the City's LDAP password. [what's LDP? Spell out, don't use acronyms] 9. The password must have 8 or more alphanumeric (/) characters and it must contain at least one character from each of the bullets noted 			
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	<p>below (i.e. each line shall contribute at least one character):</p> <ul style="list-style-type: none"> • abcdefghijklmnopqrstu vwxyz • ABCDEFGHIJKLMNO PQRSTUVWXYZ • 0123456789 • !@#\$%^&*()- +=`~,><^"?'::[{}] 			
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ATTACHMENT J
POWER PURCHASE AGREEMENT
ELIGIBLE RENEWABLE ENERGY RESOURCE
(Palo Alto Clean Local Energy Accessible Now Program)

This Power Purchase Agreement - Eligible Renewable Energy Resource, dated, for convenience, _____, 20____(the “Effective Date”), is entered into by and between the CITY OF PALO ALTO, a California chartered municipal corporation, and _____, a _____ corporation (individually, a “Party” and, collectively, the “Parties”).

RECITALS

1. The Buyer has adopted and implemented its CLEAN Program, which allows an owner of a qualifying electric generation system to sell to the Buyer the power output of a small-scale distributed generation Eligible Renewable Energy Resource, subject to the CLEAN Program’s terms and conditions.

2. The Seller owns or operates and desires to interconnect its Facility in parallel with Buyer’s Distribution System and sell the Energy produced by its Facility, net of Station Service Load, directly to the Buyer in furtherance of the CLEAN Program.

3. The Parties do not intend this Agreement to constitute an agreement by the Buyer to provide retail electrical service to the Seller.

4. The Parties wish to enter into a power purchase agreement for the sale and purchase of the Output of the Facility. The Parties will enter into a separate “Interconnection Agreement” in connection with this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the following covenants, terms and conditions, the Parties agree, as follows:

AGREEMENT

1.1 DEFINITIONS

The initially capitalized terms, whenever used in this Agreement, have the meanings set forth below, unless they are otherwise herein defined. The terms “include,” “includes,” and “including,” when used in this Agreement, shall mean, respectively, “include, without limitation,” “includes, without limitation” and “including, without limitation.”

“**Agreement**” means this Power Purchase Agreement – Eligible Renewable Energy Resource between the Buyer and the Seller.

“**Business Day**” means any day except a Saturday, Sunday, or a day that the City observes as a regular holiday under Palo Alto Municipal Code section 2.08.100(a).

“**Buyer**” refers to the City of Palo Alto, California, with a principal place of business at 250 Hamilton Avenue, Palo Alto, California 94301.

“**Buyer’s Distribution System**” means the wires, transformers, and related equipment used by the Buyer to deliver electric power to the Buyer’s retail customers, typically at sub-transmission level voltages or lower.

“**CAISO**” means the California Independent System Operator Corporation, or successor entity.

“**CAISO Tariff**” means the CAISO FERC Electric Tariff, as amended.

“**Capacity**” means the ability of a generator at any given time to produce Energy at a specified rate, as

measured in megawatts (“MW”) or kilowatts (“kW”), and any reporting rights associated with it.

“**Capacity Attributes**” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Facility, intended to value any aspect of the Contract Capacity of the Facility to produce Energy or ancillary services, including contributions towards Resource Adequacy (including those requirements defined in Section 40 of the CAISO Tariff) or reserve requirements (if any), and any other reliability or power attributes.

“**CEC**” means the California Energy Resources Conservation and Development Commission, or successor agency.

“**Certificate of RPS Eligibility**” means a certificate issued by the CEC as evidence of RPS Certification of the Facility.

“**City**” means the government of the City of Palo Alto, California.

“**CLEAN Program**” refers to the Palo Alto Clean Local Energy Accessible Now Program, a renewable energy program established by the City by adoption of resolution number _____, dated _____, of the Palo Alto City Council, whereby the Buyer will purchase from the Seller the Output of Eligible Renewable Energy Resources that meet specified criteria set forth in the City’s applicable ordinances and resolutions.

“**Commercial Operation**” means the period of operation of the Facility, once the Commercial Operation Date has occurred.

“**Commercial Operation Date**” means the date specified in the Commercial Operation Date Confirmation Letter, which the Parties execute and exchange in accordance with this Agreement.

“**Contract Capacity**” means the installed electrical Capacity available upon the Commercial Operation Date of the Facility in an amount, as specified in Exhibit “PPA-A.” “Contract Capacity” is measured at the Buyer’s revenue meter at the Delivery Point and is net of any Station Service Loads, any applicable Facility step-up transformer losses, and distribution losses on Buyer’s Distribution System up to the Delivery Point.

“**Contract Price**” means the price paid by the Buyer to the Seller for the Output generated at the Facility and received by the Buyer, as set forth in Exhibit “PPA-A.”

“**CPUC**” means the California Public Utilities Commission, or successor agency.

“**Delivery Point**” means the point of interconnection to Buyer’s Distribution System, where the Buyer accepts title to the Output.

“**Delivery Term**” means the period of time from the Commercial Operation Date through the expiration or earlier termination date of this Agreement.

“**Eligible Renewable Energy Resource**” means an electric generating facility that is defined and qualified as an “eligible renewable energy resource” under California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25471, respectively, as amended.

“**Energy**” means electrical energy generated from the Facility and delivered to Buyer’s Distribution System with the voltage and quality required by the Buyer, and measured in megawatt-hours (“MWh”) or kilowatt-hours (“kWh”), as metered at the Delivery Point.

“**Facility**” means the qualifying renewable energy generation equipment and associated power conditioning and interconnection equipment that deliver the Output to the Buyer at the Delivery Point.

“**FERC**” means the Federal Energy Regulatory Commission, or successor agency.

“Forced Outage” means an unplanned outage of one or more of the Facility’s components that results in a reduction of the ability of the Facility to produce Capacity.

“Force Majeure” means an event or circumstance, which prevents a Party from performing its obligations under this Agreement, and which is not in the reasonable control of, or the result of negligence of, the Party claiming Force Majeure, and which by the exercise of due diligence is unable to overcome or cause to be avoided. “Force Majeure” shall include: (a) An act of nature, riot, insurrection, war, explosion, labor dispute, fire, flood, earthquake, storm, lightning, tidal wave, backwater caused by flood, act of the public enemy, terrorism, or epidemic; (b) Interruption of transmission or generation services as a result of a physical emergency condition (and not congestion-related or economic curtailment) not caused by the fault or negligence of the Party claiming Force Majeure and reasonably relied upon and without a reasonable source of substitution to make or receive deliveries hereunder, civil disturbances, strike, labor disturbances, labor or material shortage, national emergency, restraint by court order or other public authority or governmental agency, actions taken to limit the extent of disturbances on the electrical grid; or (c) Other similar causes beyond the control of the Party affected, which causes such Party could not have avoided by the exercise of due diligence and reasonable care. A Party's financial incapacity, the Seller's ability to sell the Output at a more favorable price or under more favorable conditions, or the Buyer's ability to acquire the Output at a more favorable price or under more favorable conditions or other economic reasons shall not constitute an event of Force Majeure. “Force Majeure” does not include a Forced Outage to the extent such event is not caused or exacerbated by an event of Force Majeure, as described above, and does not include the Seller’s inability to obtain financing, permits, or other equipment and instruments necessary to plan for, construct, or operate the Facility.

“Good Utility Practice” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the western United States, similar to the Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability, and safety. The Seller acknowledges that its use of Good Utility Practice does not exempt it from performing any of its obligations arising under this Agreement. “Good Utility Practice” includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding paragraph that comply with manufacturers’ warranties, restrictions in this Agreement, the interconnection requirements of Buyer, the requirements of governmental authorities, and WECC and NERC standards. “Good Utility Practice” also includes the taking of reasonable steps to ensure that:

- (a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility’s needs;
- (b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Facility and emergencies whether caused by events on or off the Facility’s site;
- (c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long-term and safe operation of the Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed; and
- (e) Equipment is not operated in a reckless manner, in violation of manufacturer’s guidelines or in a manner unsafe to workers, the general public, or the connecting utility’s electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Facility site and under both normal and emergency conditions.

“Green Attributes” refers to the definition set forth in the Standard Terms and Conditions, Appendix A-2, as amended, Decision D.07-02-011, as modified by D.07-05-057, of the CPUC, which incorporates the definition of “Environmental Attributes” set forth in the Standard Terms and Conditions, Appendix A-1, as amended, D. 04-06-014. “Green Attributes” includes any and all credits, benefits, emissions reductions, environmental air quality credits, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility, and its displacement of conventional energy generation, whether existing now or arising in the future. “Green Attributes” includes RECs, as well as (1) any avoided emissions 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 (“CO2”), methane (“CH4”), 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; and (3) the reporting rights to these avoided emissions such as Green Tag Reporting Rights and RECs. “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 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 kWh 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 of the Facility, (ii) production or investment tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, grants, reductions, or allowances associated with the Facility 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 pre-existing pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered, used or created by the Facility for compliance with or sale under local, state, or federal operating and/or air quality permits or programs. If the Facility is a biomass or landfill facility and the Seller receives any tradable Green Attributes based on the Facility’s greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, the Seller shall provide the Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility. “Green Attributes” includes any other environmental credits or benefits recognized in the future and attributable to Energy generated by the Facility during the Term that may not be represented by Green Tag Reporting Rights or RECs, unless otherwise excluded herein. Any Green Attributes provided under this Agreement shall be documented by RECs, or any other representation of the environmental benefits of the Output, the monthly cumulative total of which shall be provided to the Buyer, as specified herein.

“Interconnection Agreement” refers to the agreement between the Buyer and the Seller, specific to the interconnection of the Facility to Buyer’s Distribution System.

“NERC” means the North American Electric Reliability Corporation, or successor organization.

“NCPA” means Northern California Power Agency, a California joint action agency, or successor agency.

“Output” means all Capacity associated with Contract Capacity and associated Energy made available from the Facility, as well as any Capacity Attributes, Green Attributes, or other attributes existing now or in the future associated with Contract Capacity and/or associated Energy. “Output” does not include production or investment tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, grants, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

“Planned Outage” means an outage, scheduled in advance, of one or more of the Facility’s components that results in a reduction of the ability of the Facility to produce Capacity.

“Pre-Certification Price” means the contract price to be paid for all Energy delivered to the Buyer prior to the RPS Certification Date, as specified in Exhibit “PPA-A”.

“Renewable Energy Credit” or **“REC”** has the meaning set forth in Section 399.12(h)(1) and (2) of the California Public Utilities Code, and includes a certificate of proof that one unit of electricity was generated by an Eligible Renewable Energy Resource. Currently, RECs are used to convey all Green Attributes associated with electricity production by a renewable energy resource. RECs are accumulated on a kWh basis and one REC represents the Green Attributes associated with the generation of 1 MWh (1,000 kWhs) from the Facility. For purposes of this Agreement, the term REC shall be synonymous with the term Green Tag, green ticket, bundled or unbundled renewable energy credit, tradable renewable energy certificates, or any other term used to describe the documentation that evidences the renewable and Green Attributes associated with electricity production by an Eligible Renewable Energy Resource.

“Renewables Portfolio Standard” or **“RPS”** means the standard adopted by the State of California pursuant to Senate Bill 2 1st Extraordinary Session (SBX1 2, Chapter 1, Statutes 2011-12), and California Public Utilities Code Sections 399.11 through 399.31, inclusive, as may be amended, setting minimum renewable energy targets for local publicly owned electric utilities.

“Reservation Deposit” means the monetary deposit submitted by the Seller (or the Facility sponsor on behalf of the Seller) to secure a reservation of the CLEAN Program’s prices. The Reservation Deposit is set forth in Exhibit “PPA-A.”

“Resource Adequacy” means a requirement by a governmental authority or in accordance with its FERC-approved tariff, or a policy approved by a local regulatory authority, that is binding upon either Party and that requires that Party to procure a certain amount of electric generating capacity.

“RPS Certification” means certification by the CEC that the Facility qualifies as an Eligible Renewable Energy Resource for RPS purposes, and that all Energy produced by the Facility qualifies as generation from an Eligible Renewable Energy Resource, as evidenced by a Certificate of RPS Eligibility.

“RPS Certification Date” means the date on which the RPS Certification begins, as specified in the Certificate of RPS Eligibility.

“Seller” means _____ with a principal place of business at _____.

“Station Service Load” means the electrical loads associated with the operation and maintenance of the Facility, which may at times be supplied from the Facility’s Energy.

“Term” has the meaning set forth in Section 14.1 hereof.

“WECC” means the Western Electricity Coordinating Council, the regional entity responsible for coordinating and promoting regional bulk electric system reliability in the Western Canada and the United States, or any successor organization.

2.0 SELLER’S GENERATING FACILITY, PURCHASE PRICE AND PAYMENT

2.1 **Facility.** This Agreement governs the Buyer’s purchase of the Output from the Facility, as described in Exhibit “PPA-A.” The Seller shall not modify the Facility to increase or decrease the Contract Capacity after the Commercial Operation Date.

2.2 **Products Purchased.** During the Delivery Term, the Seller shall sell and deliver, or cause to be delivered, and the Buyer shall purchase and receive, or cause to be received, the Output from the Facility. The Seller shall not have the right to procure the Output from sources other than the Facility for sale or delivery to the Buyer under this Agreement or to substitute the Output.

2.3 Delivery Term. The Delivery Term shall commence on the Commercial Operation Date under this Agreement, and shall continue for an uninterrupted period of twenty (20) years. This period will commence on the first day of the calendar month immediately following the Commercial Operation Date. As evidence of the Commercial Operation Date, the Parties shall execute and exchange the “Commercial Operation Date Confirmation Letter,” attached hereto as Exhibit “PPA-B.” The Commercial Operation Date shall be the date on which the Parties acknowledge, in writing, that the Facility starts operating and is otherwise in compliance with applicable interconnection and system protection requirements, including the final approvals by the City’s building department official.

2.4 Payment for Products Purchased.

2.4.1 Deliveries Prior to RPS Certification Date. Once the Facility has achieved Commercial Operation, if the CEC has not issued a Certificate of RPS Eligibility for the Facility or the Facility has not been registered with the appropriate entity for the tracking of Green Attributes, the Buyer will pay the Seller for the Output by multiplying the Pre-Certification Price by the quantity of Energy.

2.4.2 Deliveries After RPS Certification Date. Once the Facility has achieved Commercial Operation, the CEC has issued a Certificate of RPS Eligibility for the Facility, and the Facility has been registered with the appropriate entity for the tracking of Green Attributes, the Buyer shall pay the Seller for all Output on or after the RPS Certification Date by multiplying the Contract Price by the quantity of Energy.

2.4.3 True-up Upon Issuance of Certificate of RPS Eligibility. Once the Facility has achieved Commercial Operation, the CEC has issued a Certificate of RPS Eligibility for the Facility, and the Facility has been registered with the appropriate entity for the tracking of Green Attributes, the Buyer will pay the Seller an amount equal to the difference between the Contract Price and the Pre-Certification Price for the Output (a) that was delivered on or after the RPS Certification Date and (b) for which the Seller has already received payment at the Pre-Certification Energy Price.

2.4.4 Energy in Excess of Contract Capacity. The Seller shall not receive payment for any Energy or Green Attributes delivered in any hour to the Buyer in excess of the following amount of energy (in kilowatt-hours): 110% of the Contract Capacity (in kilowatts) multiplied by one hour. Any payment in excess of this amount shall be refunded to the Buyer, on demand.

2.5 Billing. The Buyer shall pay the Seller by check or electronic funds transfer, on a monthly basis, within thirty (30) days of the meter reading date.

2.6 Title and Risk of Loss. Title to and risk of loss related to the Output shall be transferred from the Seller to the Buyer at the Delivery Point. The Seller warrants that it will deliver to the Buyer the Output free and clear of all liens, security interests, claims, encumbrances or any interest therein or thereto by any person, arising prior to the Delivery Point.

2.7 No Additional Incentives. The Seller warrants that it has not received any other incentives funded by the Buyer’s ratepayers and it further agrees that, during the Term, it shall not seek additional compensation or other benefits from the Buyer pursuant to the following programs of the Buyer: (a) Photovoltaic (PV) Partners Program; (b) Power from Local Ultra-Clean Generation Incentive (PLUG-In) Program; or (c) other similar programs that are or may be funded by the Buyer’s ratepayers.

3.0 RPS CERTIFICATION; GREEN ATTRIBUTES

3.1 CEC Certification. The Seller, at its own cost and expense, shall obtain the RPS Certification within six (6) months of the Commercial Operation Date. The Seller shall maintain the RPS Certification at all times during the Delivery Term. The foregoing provision notwithstanding, the Seller shall not be in breach of this Agreement and the Buyer shall not have the right to terminate this Agreement, if the Seller's failure to obtain or maintain the RPS Certification is due to a change in California law, occurring after the Commercial Operation Date, so long as the Seller has used commercially reasonable efforts to obtain and maintain the RPS Certification and the Seller's actions or omissions did not contribute to its inability to obtain and maintain the RPS Certification.

3.2 Obligation to Deliver Green Attributes. The Seller shall sell and deliver to the Buyer, and the Buyer shall buy and receive from the Seller, all right, title, and interest in and to Green Attributes associated with Energy, produced by the Facility and delivered to the Buyer at the Delivery Point, whether now existing or that hereafter come into existence during the Term, except as otherwise excluded herein; provided, the Buyer shall not be obligated to purchase and pay the Seller for any Green Attributes associated with any amount of the Output, that is generated by any fuel which is not renewable and which cannot be counted for the purpose of the production of Green Attributes. The Seller agrees to sell and make all such Green Attributes available to the Buyer to the fullest extent allowed by applicable law, in accordance with the terms and conditions of this Agreement. The Seller warrants that the Green Attributes provided under this Agreement to the Buyer shall be free and clear of all liens, security interests, claims and encumbrances.

3.3 Conveyance of Green Attributes. The Seller shall provide Green Attributes associated with the Facility, which shall be documented and conveyed to the Buyer in accordance with the procedure described in Exhibit "PPA-D."

3.4 Additional Evidence of Green Attributes Conveyance. At the Buyer's request, the Seller shall provide additional reasonable evidence to the Buyer or to third parties of the Buyer's right, title, and interest in the Green Attributes and any other information with respect to Green Attributes, as may be requested by the Buyer.

3.5 Modification of Green Attributes Conveyance Procedure. The Buyer may unilaterally modify Exhibit "PPA-D" in order to reflect changes necessary in the Green Attributes conveyance procedures, so that the Buyer may be able to receive and report the Green Attributes, purchased under this Agreement, as belonging to the Buyer.

3.6 Reporting of Ownership of Green Attributes. The Seller shall not report to any person or entity that the Green Attributes sold and conveyed to the Buyer belong to any person other than the Buyer. The Buyer may report under any applicable program that Green Attributes purchased by the Buyer hereunder belong to it.

3.7 Greenhouse Gas Emissions. The Seller shall comply with any laws and/or regulations regarding the need to offset emissions of GHGs by delivering to the Buyer the Energy from the Facility with a net zero GHG impact.

4.0 CONVEYANCE OF CAPACITY ATTRIBUTES

4.1 Conveyance of Resource Adequacy Capacity. The Seller shall not report to any person or entity that the Resource Adequacy Capacity, as defined in the CAISO Tariff) associated with the Facility, if any, belongs to a person other than the Buyer, which may report that Resource Adequacy Capacity purchased hereunder belongs to it to fulfill the Resource Adequacy requirements, as defined in Section 40 of the CAISO Tariff, as amended, or any successor program. The Seller shall take those actions described in Section 6.0 hereof, as applicable, to secure recognition of Resource Adequacy Capacity by the CAISO.

4.2 Conveyance of Other Capacity Attributes. In addition to the obligations imposed on the

Seller under Section 4.1, the Seller will undertake any and all actions reasonably needed to enable the Buyer to effect the recognition and transfer of any Capacity Attributes in addition Resource Adequacy, to the extent that such Capacity Attributes exist now or will exist in the future; provided, if such actions require any actions beyond the giving of notice by the Seller, then the Buyer shall reimburse all out-of-pocket costs and charges of such actions.

4.3 Reporting of Ownership of Capacity Attributes. The Seller shall not report to any person or entity that the Capacity Attributes sold and conveyed to the Buyer belong to any person other than the Buyer. The Buyer may report under any such program that such Capacity Attributes purchased hereunder belong to it.

5.0 METERING AND OPERATIONS

5.1 Timing of Outages. The Seller may not schedule or take any Planned Outage from 12:00 p.m. through 7:00 p.m. Pacific Time during the months of June through October.

5.2 Outage Reporting.

5.2.1 Buyer Request. The Seller is not required to report any Planned Outage or Forced Outage, unless the Buyer first submits a written request to the Seller to commence Outage reporting. Upon receipt of such a request, the Seller shall report all subsequent Planned Outages and the Forced Outages according to the procedures described in subsections 5.2.2 and 5.2.3, and shall continue such reporting until (a) the termination of this Agreement for any reason, or (b) the Buyer subsequently provides written notice to the Seller that the Seller may cease such reporting in the future.

5.2.2 Planned Outage Notifications. The Seller shall notify the Buyer at least 72 hours in advance of any Planned Outage that would result in a reduction in the effective Output of the Facility during the period over which the Planned Outage is scheduled. Notification shall be provided by e-mail to the e-mail address (or addresses) set forth in Exhibit "PPA-F."

5.2.3 Forced Outage Notifications. Within 24 hours of the occurrence of a Forced Outage of the Facility that impacts the ability of the Facility to produce Energy, the Seller shall notify the Buyer of the Forced Outage, including the Capacity of the Facility that is impacted, and the expected duration of the Forced Outage. Within 24 hours of the return of the Facility to service following the Forced Outage, the Seller shall notify the Buyer of the return-to-service details. Notification shall be made by e-mail to the address (or addresses) set forth in Exhibit "PPA-F."

5.3 Metering. The Buyer shall furnish and install one or more standard watt-hour meters to read Energy generated by the Facility, and it will charge a meter fee to the Seller to cover the costs associated with the meter's purchase and installation. As requested, the Seller shall provide and install a meter socket in accordance with the Buyer's metering standards. The Buyer reserves the right to install additional metering equipment at its sole cost and expense.

6.0 PARTICIPATING GENERATORS

6.1 Applicability. This Section 6.0 shall apply if the Facility meets the definition of a "Participating Generator," as may be defined by the CAISO Tariff. This Section 6.0 shall not apply if the definition applies to the Facility only upon the election by the Seller. For the purposes of this Section 6.0, all special terms not otherwise defined in Section 1.0 are defined in the CAISO Tariff.

6.2 Participating Generator Agreement. The Buyer will notify the CAISO of the Seller's interconnection to Buyer's Distribution System. If the CAISO requires it, the Seller, at its own expense, shall negotiate and enter in to two contracts, a "Participating Generator Agreement" and a "Meter Services Agreement for CAISO Metered Entities," with the CAISO.

6.3 Scheduling Coordination. If the CAISO requires the Seller to enter in to a Participating Generator Agreement, then the Seller shall designate NCPA as the Buyer's scheduling coordinator. The Buyer, acting in its sole discretion, may replace NCPA as the scheduling coordinator for the Facility. If NCPA ceases to be the scheduling coordinator for the Facility and the Buyer has not, upon fourteen (14) days' prior written notice of inquiry from the Seller, appointed a replacement scheduling coordinator, then the Seller shall have the right to appoint a replacement scheduling coordinator on the Buyer's behalf. Thereafter, the Buyer shall enter into all reasonable and appropriate agreements with such replacement scheduling coordinator at its own costs.

6.4 Scheduling Procedure. The Buyer may require the Seller to provide the Buyer with Energy forecasts on a periodic basis, as may be necessary for the Buyer to account for expected Facility generation in its daily power scheduling process. The requirements are set forth in Exhibit "PPA-C."

6.5 Modification of Scheduling and Outage Notification Procedure. The Buyer may unilaterally modify Exhibit "PPA-C" to reflect changes necessary in the scheduling and Outage notification procedures. The Buyer shall give the Seller reasonable notice of any such changes.

6.6 Provision of Other Equipment. If the Seller is required to enter into a Participating Generator Agreement with the CAISO, then the Seller, at its own cost and expense, shall provide and maintain data transmission-grade phone line and telecommunications equipment at the meter location that complies with applicable requirements of the CAISO, the Buyer, and NCPA. Any meter installed by the Seller shall comply at all times with the CAISO's metering requirements. If the Seller fails to provide or maintain any such required equipment or data connection, then the Buyer shall acquire, install and maintain the same at the Seller's sole cost and expense.

6.7 Designation as Resource Adequacy Resource. The Buyer may submit a written request to the Seller to obtain the CAISO's designation of the Facility as a Resource Adequacy Resource. Upon receipt of such request, the Seller shall provide such information and undertake such steps as may be required by the CAISO in order to complete such an assessment. If the Buyer makes such a request, then the Buyer shall be responsible for the following: (1) any costs charged to the Seller by the CAISO as a condition of applying for or receiving designation as a Resource Adequacy Resource, including any deposits required during the study process or the cost of any related studies or deliverability assessments performed by the CAISO; (2) the capital, installation, and maintenance costs of any additional equipment required by the CAISO as a condition of receiving designation as a Resource Adequacy Resource; (3) the costs of any Network Upgrades, as defined in the CAISO Tariff, as may be required by the CAISO, provided, the Buyer shall receive any subsequent repayments from the CAISO or the Participating Transmission Owner related to such upgrades; and (4) any charges or penalties assessed by the CAISO as a consequence of the Facility's designation as a Resource Adequacy Resource.

6.8 CAISO Charges. The Buyer shall be solely responsible for paying all costs and charges associated with the receipt of Energy under this Agreement, at the Delivery Point, and for the transmission and delivery of Energy from the Delivery Point to any other point downstream of the Delivery Point, including transmission costs and charges, competition transition charges, applicable control area service charges, transmission congestion charges, inadvertent energy flows, any other CAISO charges related to the transmission of such Energy by the CAISO and any charge assessed or collected in the future pursuant to any utility tariff or rate schedule, however defined, for transmission or transmission-related service rendered by or for any transmission-owning or operating entity. The Seller will undertake any and all actions reasonably needed to allow the Buyer to comply with any obligations, and minimize any potential liability, under the CAISO tariff. If and to the extent that the Seller fails to comply with the notice provision in Exhibit "PPA-C," concerning Outages, or with its obligations as outlined in the previous sentence, the Seller shall be wholly responsible for all imbalances, deviations, or any other CAISO charges or penalties associated with such Outage or other CAISO Tariff obligation.

6.9 Participating Intermittent Resource Program. Upon the request of the Buyer, the Seller shall apply to the CAISO to participate in the Participating Intermittent Resource Program ("PIRP"), as defined by the CAISO, or any similar or successor program designed to reduce imbalance charges for non-

dispatch resources such as solar generators. The Seller shall take all reasonable actions and execute documents and instructions necessary to enable participation of the Facility in the PIRP or any such program. If the Buyer makes such a request, the Buyer shall be responsible for the following, if required by the CAISO for the sole purpose of participation in the PIRP or any such program: (a) capital and installation costs of additional equipment; and (b) any deposits or charges imposed by the CAISO as a condition of participating in the PIRP or any such program.

6.10 Inclusion in Metered Subsystem. At the option of the Buyer, the Facility may be included within NCPA's metered sub-system in connection with the scheduling of power over the CAISO grid and related functions; provided, however, that such inclusion shall have no adverse effect on the Facility's operations or the Seller (or any such effect shall be fully mitigated by the Buyer). The Seller will undertake any and all actions reasonably needed to allow the Buyer to comply with any obligations, and minimize any potential liability, under the CAISO Tariff; provided, that if such actions require any actions beyond the giving of notice to be provided by the Buyer, then the Buyer shall reimburse the Seller for all out-of-pocket costs and charges of such actions.

7.0 COMMERCIAL OPERATION DATE; REFUND OF RESERVATION DEPOSIT

7.1 Commercial Operation Date. The Facility shall achieve Commercial Operation by the Commercial Operation Date deadline (the "Deadline"), which is one (1) year from the Effective Date.

7.2 Reservation Deposit. The Buyer acknowledges that, as of the Effective Date or other date established by the Buyer, the Seller has provided the Reservation Deposit to the Buyer.

7.2.1 If the Commercial Operation Date occurs on or prior to the Deadline, the Buyer shall refund to the Seller the Reservation Deposit without interest.

7.2.2 If the Commercial Operation Date commences within seventy (70) days of the Deadline, the Seller, as liquidated damages and not as a penalty, shall relinquish its claim to a ten percent (10%) portion of the amount of the Reservation Deposit for every full week transpiring between the Deadline and the Commercial Operation Date, but the total amount to be relinquished to the Buyer shall not exceed 100% of the Reservation Deposit.

7.2.3 If the Facility has not achieved Commercial Operation within seventy (70) days of the Deadline, then the Buyer may terminate this Agreement without liability of either Party to the other Party by giving written notice of termination to the Seller.

7.2.4 If the Seller gives notice of termination to terminate the Agreement before Commercial Operation occurs, then the Buyer shall refund a percentage of the Reservation Deposit equal to the following: the percentage to be refunded will equal A/B , where A equals the number of days between the date of the Seller's notice of termination, received by the Buyer, and the Deadline, and B equals the number of days between the Effective Date and the Deadline.

7.3 Return of Reservation Deposit. The Buyer shall return to the Seller the Reservation Deposit, without interest, in the event that (a) the Buyer furnishes written notice of the costs of interconnection (defined in the Interconnection Agreement to include the costs related to the Interconnection Facilities and Distribution Upgrades) to the Seller and (b) within thirty (30) days of receipt of the notice regarding costs of interconnection, the Seller provides the Buyer with written notice that the Seller does not intend to sign the Interconnection Agreement and does intend to proceed with the project.

8.0 REPRESENTATION AND WARRANTIES; COVENANTS

8.1 Representations and Warranties. On the Effective Date, each Party represents and warrants to the other Party that:

8.1.1 It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

8.1.2 The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

8.1.3 This Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;

8.1.4 It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;

8.1.5 There is not pending or, to its knowledge, threatened against it or any of its affiliates, if any, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement; and

8.1.6 It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

8.2 General Covenants. Each Party covenants that, during the Term:

8.2.1 It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

8.2.2. It shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

8.2.3 It shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.3 Covenant by Seller. The Seller covenants that, during the Term:

8.3.1 If the Eligible Renewal Energy Resource or the Facility is considered an 'eligible qualifying facility' under applicable law and has a net power production capacity of greater than one (1) megawatt, then the Seller covenants and agrees that, within thirty (30) days of the Effective Date or longer period allowed by law, it will complete and file Form No. 556 or other similar form with FERC as the same may be required by law."

9.0 GENERAL CONDITIONS

9.1 Facility Care and Interconnection. During the Delivery Term, the Seller shall execute and maintain an "Interconnection Agreement" with the Buyer, whereby the Seller shall pay and be responsible for designing, installing, operating, and maintaining the Facility in accordance with all applicable laws and regulations and shall comply with all applicable Buyer, WECC, FERC, and NERC requirements, including applicable interconnection and metering requirements. The Seller shall also comply with any modifications, amendments or additions to the applicable tariff and protocols. The Seller also shall arrange and pay independently for any and all necessary costs under the Interconnection Agreement with the Buyer.

9.2 Standard of Care. The Seller shall: (a) operate and maintain the Facility in a safe manner in accordance with its existing applicable interconnection agreements, manufacturer's guidelines, warranty requirements, Good Utility Practice, industry norms (including standards of the National Electrical Code, Institute of Electrical and Electronic Engineers, American National Standards Institute, and the Underwriters Laboratories, and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code, as such laws and code norms may be amended from time to time; (b) obtain any governmental authorizations and permits required for the construction and operation thereof. The Seller shall make any necessary and commercially reasonable repairs with the intent of optimizing the availability of electricity to the Buyer. The Seller shall reimburse the Buyer for any and all losses, damages, claims, penalties, or liability that the Buyer incurs as a result of the Seller's failure to obtain or maintain any governmental authorizations and permits required for the construction and operation of the Facility throughout the Term.

9.3 Access Rights. The Buyer, its authorized agents, employees and inspectors shall have the right to inspect the Facility on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to the Buyer by law, including, without limitation, its ordinances, resolutions, tariffs, utility rate schedules or utilities rules and regulations. The Buyer shall make reasonable efforts to coordinate its emergency activities with the safety and security departments, if any, of the Facility's operator. The Seller shall keep the Buyer advised of current procedures for communicating with the Facility operator's safety and security departments.

9.4 Protection of Property. Each Party shall be responsible for protecting its own facilities from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the other Party's facilities and such other Party shall not be liable for any such damages so caused.

9.5 Insurance. During the Term, the Seller shall obtain and maintain and otherwise comply with the insurance requirements, as set forth in Exhibit "PPA-E."

9.6 Buyer's Performance Excuse; Seller Curtailment.

9.6.1 Buyer Performance Excuse. The Buyer shall not be obligated to accept or pay for the Output during Force Majeure that affects the Buyer's ability to accept Energy.

9.6.2 Seller Curtailment. The Buyer may require the Seller to interrupt or reduce deliveries of Energy: (a) whenever necessary to construct, install, maintain, repair, replace, remove, or investigate any of its equipment or part of the Buyer's Distribution System or facilities; or (b) if the Buyer determines that curtailment, interruption, or reduction is necessary due to a System Emergency, as defined in the CAISO Tariff, an unplanned outage on Buyer's Distribution System, Force Majeure, or compliance with Good Utility Practice.

9.7 Notices of Outages. Whenever possible, the Buyer shall give the Seller reasonable notice of the possibility that interruption or reduction of deliveries may be required.

9.8 No Additional Loads. The Seller shall not connect any loads not associated with Station Service Loads at the location of the Facility in a manner that would reduce Energy provided from the Facility to the Buyer hereunder. The Seller shall obtain separate retail electric service under the Buyer's rate schedules for the service of such additional loads.

10.0 FORCE MAJEURE

10.1 Effect of Force Majeure. A Party shall be excused from its performance under this Agreement to the extent, but only to the extent, that its performance hereunder is prevented by Force Majeure. A Party claiming Force Majeure shall exercise due diligence to overcome or mitigate the effects

of Force Majeure; provided, that nothing in this Agreement shall be deemed to obligate the Party affected by Force Majeure (a) to forestall or settle any strike, lock-out or other labor dispute against its will; or (b) for Force Majeure affecting the Seller only, to purchase electric power to cure Force Majeure.

10.2 Remedial Action. A Party shall not be liable to the other Party if the Party is prevented from performing its obligations hereunder due to Force Majeure. The Party rendered unable to fulfill an obligation by reason of Force Majeure shall take all action necessary to remove such inability with all due speed and diligence. The nonperforming Party shall be prompt and diligent in attempting to remove the cause of its failure to perform, and nothing herein shall be construed as permitting that Party to continue to fail to perform after that cause has been removed. Notwithstanding the foregoing, the existence of Force Majeure shall not excuse any Party from its obligations to make payment of amounts due hereunder.

10.3 Notice of Force Majeure. In the event of any delay or nonperformance resulting from Force Majeure, the Party directly impacted by Force Majeure shall, as soon as practicable under the circumstances, notify the other Party, in writing, of the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance.

10.4 Termination Due to Force Majeure. If a Party will be prevented from performing its material obligations under this Agreement for an estimated period of twelve (12) consecutive months or longer due to Force Majeure, then the unaffected Party may terminate this Agreement, without liability of either Party to the other, upon thirty (30) Days' prior written notice at any time during Force Majeure.

11.0 INDEMNITY

11.1 Indemnity by the Seller. The Seller shall indemnify, defend, and hold harmless the Buyer, its elected and appointed officials, directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees, resulting from, or arising out of or in any way connected with claims by third parties associated with (A) (i) Energy delivered at the Delivery Point; (ii) the Seller's operation and/or maintenance of the Facility; or (iii) the Seller's actions or inactions with respect to this Agreement, and (B) any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to the Buyer or other third party, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of the Buyer, its agents, employees, directors or officers.

11.2 Indemnity by the Buyer. The Buyer shall indemnify, defend, and hold harmless the Seller, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees resulting from, or arising out of or in any way connected with claims by third parties associated with acts of the Buyer, its officers, employees, agents, and representatives, relating to: (A) Energy delivered by the Seller under this Agreement after the Delivery Point, and (B) any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to the Seller or other third party, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of the Seller, its agents, employees, directors or officers.

12.0 LIMITATION OF DAMAGES

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR

CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 11 (INDEMNITY), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

13.0 NOTICES

Notices shall, unless otherwise specified herein, be given, in writing, and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail) to the addresses set forth in Exhibit "PPA-F." Whenever this Agreement requires or permits delivery of a "notice" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by facsimile transmission or electronic mail will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific Time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. A Party may request a change to Exhibit "PPA-F" as necessary to keep the information current.

14.0 TERM, TERMINATION EVENT AND TERMINATION

14.1 Term. The Term shall commence upon the execution by the duly authorized representatives of each of the Parties, and shall remain in effect until the conclusion of the Delivery Term, unless terminated sooner pursuant to the terms and conditions of this Agreement. All indemnity rights shall survive the termination of this Agreement for twelve (12) months.

14.2 Termination Event.

14.2.1 The Buyer shall have the right, but not the obligation, to terminate this Agreement upon the occurrence of any of the following, each of which is a "Termination Event": (a) The Facility has not achieved Commercial Operation within seventy (70) days following the Deadline; (b) After the Commercial Operation Date, the Seller has not sold or delivered Energy from the Facility to the Buyer for a period of twelve (12) consecutive months; (c) If the Facility does not obtain RPS Certification within six (6) months of the Commercial Operation Date and maintain RPS Certification as required by Section 3.2; or (d) The Seller breaches any other material obligation of this Agreement.

14.2.2 The Seller shall have the right, but not the obligation, to terminate this Agreement upon the occurrence of any of the following, each of which is a "Termination Event": (a) The Buyer fails to make a payment due and payable under this Agreement within thirty (30) days after written notice that such payment is due; or (b) The Buyer breaches any other material obligation of this Agreement. The preceding sentence notwithstanding, the Seller may terminate this Agreement without cause at any time prior to the Commercial Operation Date, subject to the provisions of Section 7 of this Agreement.

14.3 Time to Cure. None of the events described in Section 14.2.1 and 14.2.2 shall constitute a Termination Event if the Buyer or the Seller cures the event, failure, or circumstance within thirty (30) days after receipt of written notification sent by the other Party, seeking termination, or such longer period as may be necessary to cure so long as the Party subject to the Terminating Event is exercising diligent efforts to cure.

14.4 Termination.

14.4.1 Declaration of a Termination Event. If a Termination Event has occurred and is continuing, the Party with the right to terminate shall have the right to: (a) send notice, designating a day, no earlier than thirty (30) days after such notice is deemed to be received (as provided in Section 13), as an early termination date of this Agreement (the “Early Termination Date”), unless the Seller has timely communicated with the Buyer and the Parties have agreed to resolve the circumstances giving rise to the Termination Event; (b) accelerate all amounts owing between the Parties; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date.

14.4.2 Release of Liability for Termination Event. Upon termination of this Agreement pursuant to this section neither Party shall be under any further obligation or subject to liability hereunder, except with respect to the indemnity provision in Section 11 hereof, which shall remain in effect for a period of 12 months following the Early Termination Date.

14.5 No Limitation on Damages. Nothing in this Agreement shall be deemed or construed to limit a Party’s right to recover damages from the other Party, except as otherwise provided in this Agreement.

15.0 RELEASE OF DATA

Except as may be exempt from disclosure under applicable law, the Seller authorizes the Buyer to release to any regulatory authority having jurisdiction over the Facility or a Party, or to any request made pursuant to the California Constitution or the California Public Records Act, information regarding the Facility, including the Seller’s name and location, operational characteristics, the Term of this Agreement, the Facility resource type, the scheduled Commercial Operation Date, the actual Commercial Operation Date, the Contract Capacity, payments made to the Seller and Energy production information. The Seller acknowledges that this information may be made publicly available.

16.0 ASSIGNMENT

Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

16.1 Upon the written request of the Seller, the Buyer will execute a “Lender Consent and Agreement” between the Seller and the Seller’s lender(s), if any, in the form acceptable to the Parties; provided, for illustration purposes only, an exemplar is attached hereto as Exhibit “PPA-G.”

16.2 Notwithstanding the foregoing, no Consent and Agreement shall be required for:

16.2.1 Any assignment or transfer of this Agreement by the Seller to an affiliate of the Seller, provided that such affiliate’s creditworthiness is equal to or better than that of Seller, as reasonably determined by the non-assigning or non-transferring Party; or

16.2.2 Any assignment or transfer of this Agreement by the Seller or the Buyer to a person succeeding to all or substantially all of the assets of such Party, provided that such person’s creditworthiness is equal to or greater than that of such Party, as reasonably determined by the non-assigning or non-transferring Party.

16.2.3 Notification of any assignment or transfer of this Agreement under Section 16.2.1 or 16.2.2 shall be given to the non-assigning or non-transferring Party in accordance with Exhibit “PPA-F.”

17.0 APPLICABLE LAW, VENUE, ATTORNEYS’ FEES, AND INTERPRETATION

This Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties will comply with applicable laws pertaining to their obligations arising under this

Agreement. In the event that an action is brought, the Parties agree that trial of such action will be vested exclusively in the state courts of California or in the United States District Court for the Northern District of California in the County of Santa Clara, State of California. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. If a court of competent jurisdiction finds or rules that any provision of this Agreement, the Exhibits, or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement, the Exhibits, or any amendment thereto will remain in full force and effect. The Parties agree that the normal rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any Exhibit or any amendment thereof.

18.0 SEVERABILITY

If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

19.0 COUNTERPARTS; INTERPRETATION OF CONFLICTING PROVISIONS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or portable document format ("PDF") transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement. In the event of a conflict between the Agreement and any, some or all of the Exhibits, the document imposing the more specific duty or obligation will prevail.

20.0 GENERAL

No amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The headings used herein are for convenience and reference purposes only.

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21. EXHIBITS

The following exhibits shall be deemed incorporated in and made a part of this Agreement.

- Exhibit "PPA-A" - Facility Description, Prices, and Reservation Deposit
- Exhibit "PPA-B" - Commercial Operation Date Confirmation Letter
- Exhibit "PPA-C" - Scheduling and Outage Notification Procedure
- Exhibit "PPA-D" - Green Attributes Reporting and Conveyance Procedures
- Exhibit "PPA-E" - Insurance Requirements
- Exhibit "PPA-F" - Notices
- Exhibit "PPA-G" - Form of Lender Consent and Agreement

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their authorized representatives as of the Effective Date.

CITY OF PALO ALTO

SELLER

APPROVED AS TO FORM

Senior Deputy City Attorney

APPROVED

City Manager

Director of Utilities

EXHIBIT "PPA-A"

Facility Description, Rates, and Reservation Deposit

Program Rates

Contract Term: Twenty (20) years
Contract rate: \$0.165 per kWh
Pre-certification rate: \$0.08 per kWh

Reservation Deposit

Reservation Deposit (\$20/kW of Contract Capacity) \$ _____

Service address: _____

Facility Description:

Contract Capacity: _____ kW (CEC-AC), based on based on solar array rating (Panel rated output at PV USA test conditions x inverter efficiency)

Facility primary fuel/technology: _____

EXHIBIT "PPA-B"

Commercial Operation Date Confirmation Letter

In accordance with the terms of the Power Purchase Agreement (Palo Alto CLEAN), dated _____ (the "Agreement") by and between the City of Palo Alto, as the Buyer, and _____, as the Seller, this Confirmation Letter serves to document the Parties' agreement that (i) the conditions precedent to the occurrence of the Commercial Operation Date have been satisfied, and (ii) the Buyer has received Energy, as specified in the Agreement, as of _____, _____. The actual installed Contract Capacity is _____ kW.

This Confirmation Letter shall confirm the Commercial Operation Date, as defined in the Agreement, as of the date referenced in the preceding sentence.

IN WITNESS WHEREOF, each Party has caused this letter to be duly executed by its authorized representative as of the date of last signature provided below:

Buyer

Seller

By: _____

By: _____

Name: _____

Name: _____

Title: Director of Utilities

Title: _____

Date: _____

Date: _____

In recognition of the Commercial Operation Date relative to the Effective Date of the Agreement by and between the Buyer and the Seller, the Seller hereby calculates the amount to return, if any, of the Seller's deposit, as follows:

Original Reservation Deposit Amount: \$ _____

Commercial Operation Date Deadline: _____

- Commercial Operation Date is prior to Deadline
- Commercial Operation Date occurred _ _____ weeks following the Deadline, meaning that _____ % of the Reservation Deposit is relinquished by Seller per Section 7.2.2 of the Power Purchase Agreement.

Amount (if any) of Reservation Deposit to return to the Seller is: \$ _____

EXHIBIT "PPA-C"

Scheduling and Outage Notification Procedure

C.1 Applicability. This Exhibit "PPA-C" shall apply if the Facility is subject to Section 6.0 of this Agreement.

C.2 Annual Operations Forecast

C.2.1 By the tenth (10th) day September of each calendar year, the Seller will provide NCPA with an annual operations forecast detailing hourly expected generation and all proposed planned Outages for the next calendar year. The annual operations forecast for the calendar year shall be provided by not later than ninety (90) days prior to the scheduled Commercial Operation Date of the Generating Facility.

C.2.2 NCPA may request modifications to the annual operations forecast at any time, and the Seller shall use good faith efforts to accommodate the requested modifications.

C.2.3 The Seller shall not conduct Planned Outages at times other than as set forth in its annual operations forecast, unless approved in advance by NCPA, which approval shall not be withheld or delayed unreasonably.

C.2.4 The Seller shall not schedule or conduct Planned Outages from 12:00 p.m. through 7:00 p.m. Pacific Time during the months of June through October.

C.3. Short Term Operations Forecasts

C.3.1. Quarterly Operations Forecast

C.3.1.1 By the fifth (5th) day of January, April and July of each Contract Year, the Seller shall provide a calendar quarter-operations forecast by hour of expected generation and all proposed Planned Outages for the next full calendar quarter and the twelve (12) months following that calendar quarter. As an example, by January 5, 2014, the Seller would provide a calendar quarter-operations forecast by hour of expected generation for the period, April 1, 2014 through June 30, 2014, and identify all proposed Planned Outages for the period, April 1, 2014 through June 30, 2015.

C.3.1.2 NCPA will approve or require modifications to the proposed calendar quarter-operations forecast within ten (10) days of receipt of the forecast.

C.3.1.3 If required by NCPA, the Seller will provide a modified calendar quarter-operations forecast within seven (7) days after receipt of required modifications from NCPA.

C.3.2 Weekly Update

C.3.2.1 By 14:00 of each Wednesday, the Seller shall provide an electronic update, in a format specified by NCPA, to the calendar quarter-operations forecast for the following seven (7) days (Thursday through the next Wednesday).

C.3.2.2 The weekly update shall include hourly expected generation and all proposed planned Outages for the relevant seven (7) day period.

C.4 Outage Detail for Annual and Short Term Operations Forecasts. Outage information provided by the Seller shall include, at a minimum, the start time and stop time of the Outage, capacity out of service (kW), the equipment that is or will be out of service, and the reason for the Outage.

C.5 General Scheduling Protocols

C.5.1 Daily Modifications to Forecasts. Unless otherwise mutually agreed, the Seller may make changes to the weekly update to the calendar quarter-operations forecast by providing such changes to NCPA prior to 08:00 of the day that is two (2) Business Days before the active scheduling day as determined by the WECC prescheduling calendar. Example: For power that is scheduled for generation or delivery on Friday, March 29, 2014, changes must be submitted to NCPA by 08:00 on Wednesday, March 27, 2014.

C.5.2 Hourly Modifications to Active Schedules. Unless otherwise mutually agreed, the Seller may request changes to active schedules by providing such changes to NCPA with a minimum of four (4) hours' notice prior to the applicable CAISO market deadline (e.g. Hour Ahead Scheduling Process ("HASP") Scheduling deadline, as defined in the CAISO Tariff). Active day Schedule changes are not binding. Changes to active Schedules are limited to two (2) changes per day, excluding forced Outages, unless otherwise agreed to between the Parties. One request for a Schedule change, of one-hour or multiple-hours duration, constitutes one Schedule change. Example: For power that is scheduled for generation or delivery in hour ending 15:00 (for the period from 14:01 to 15:00), changes must be submitted to NCPA by 10:00.

C.5.3. Unforeseen Circumstances. At the Seller's request, NCPA may, but is not required to, modify the Schedules for the Generation Facility Output due to unforeseen circumstances in accordance with the above scheduling timeline constraints described in this Exhibit PPA-C.

C.5.4. Absence of Forecasts. In the absence of forecasts and schedules as required by this Agreement or this Exhibit, NCPA shall utilize the most current information the Seller provides in the development and submission of Schedules.

C.6 Outage Reporting Protocols

C.6.1. Notification. The Seller shall notify NCPA of all planned or forced Outages of the Generating Facility to ensure compliance with the CAISO Outage Coordination and Enforcement Protocols.

C.6.1.1 Outage information provided by the Seller shall include, at a minimum, the start time and stop time of the Outage, Capacity out of service (kW), equipment out of service, and the reason for the Outage.

C. 6.1.2 Seller shall provide the Planned Outages not included in the annual operations forecast, the calendar quarter-operations forecast, or the weekly update, to NCPA at least four (4) Business Days prior to the start of the requested outage.

C. 6.1.3 At any time prior to the start of a Planned Outage, the CAISO may deny the Outage due to a System Emergency (as defined in the CAISO Tariff) or as otherwise permitted under the CAISO Tariff. If NCPA receives notice that the CAISO has denied an Outage in accordance with the CAISO Tariff, NCPA will notify the Seller as soon as possible and the Seller shall modify the planned Outage as required by the CAISO.

C.6.2 Commencement of an Outage. The Seller shall not begin any Planned Outage without the prior approval of NCPA and the CAISO.

C.6.3 Forced Outages

C.6.3.1 The Seller shall report the Forced Outages to NCPA within twenty (20)

minutes of such Outages.

C.6.3.2 The Seller's notice of a Forced Outage sent to NCPA shall include the reason for the Outage (if known), expected duration of the Outage, and the Capacity reduction.

C.6.3.3 By the end of the next Business Day following the day on which a Forced Outage has occurred, the Seller shall provide to NCPA a detailed written report, specifying the reason for the Outage, expected duration of such Outage, capacity reduction, and actions taken to mitigate such Outage.

C.6.4 Return to Service. The Seller shall notify NCPA as soon as possible, but in any case before the Generating Facility is returned to service.

C.7 Notices. All Scheduling notices and Schedules shall be submitted to NCPA by phone, fax or email, or other means as may be mutually agreed by the Parties, to the persons designated in Exhibit "PPA-F."

C.8 Changes in Scheduling and Outage Procedure. The Buyer shall revise Exhibit "PPA-C," or, as appropriate, give written notice to the Seller regarding the revision, and issue a new Exhibit "PPA-C," which shall then become part of the Agreement to reflect changes in the scheduling and outage notification procedure.

EXHIBIT “PPA-D”

Green Attributes Reporting and Conveyance Procedures

D.1 Additional Definitions for the Conveyance of Green Attributes

D.1.1 “Certificate Transfers” means the process, as described in the WREGIS Operating Rules, whereby a WREGIS account holder may request that WREGIS Certificates from a specific generating unit shall be directly deposited to another WREGIS account.

D.1.2 “WREGIS Certificates” means a certificate created within the WREGIS system that represents all Renewable and Green Attributes from one MWh of electricity generation from an Eligible Renewable Energy Resource that is registered with WREGIS.

D.1.3 “WREGIS Operating Rules” means the document published by WREGIS that governs the operation of the WREGIS system for registering, tracking, and conveying, among others, RECs produced from Eligible Renewable Energy Resources that shall be registered with WREGIS.

D.1.4 “WREGIS” means Western Renewable Energy Generation Information System.

D.2 RECs. Green Attributes shall be conveyed by the Seller to the Buyer through RECs, which shall be registered tracked and conveyed to the Buyer, using WREGIS.

D.3 WREGIS Registration. Prior to the Commercial Operation Date, the Buyer will register the Facility in the Buyer’s WREGIS account on behalf of the Seller. The Buyer shall charge back to the Seller any costs of registering and maintaining the registration of the Facility with WREGIS. The Seller shall provide to the Buyer any documents required by WREGIS and assign the Seller’s rights to register the Facility in WREGIS, using agreements provided by WREGIS.

D.4 Buyer’s WREGIS Account. The Buyer shall, at its sole expense, establish and maintain the Buyer’s WREGIS account sufficient to accommodate the WREGIS Certificates produced by the output of the Facility. The Buyer shall be responsible for all expenses associated with (A) establishing and maintaining the Buyer’s WREGIS Account, and (B) subsequently transferring or retiring WREGIS Certificates.

D.5 Qualified Reporting Entity. The Buyer shall be the Qualified Reporting Entity (as such term is defined by WREGIS) for the Facility, and shall be responsible for providing the metered Output data to WREGIS.

D.6 Reporting of Environmental Attributes. In lieu of the Seller’s transfer of the WREGIS Certificates using Certificate Transfers from the Seller’s WREGIS account to the Buyer’s WREGIS account, the Buyer shall report the Facility as being held directly in its WREGIS account, which will preclude the Seller from reporting the Facility in its own WREGIS account.

D.6.1 By avoiding the use of Certificate Transfers, there will be no transaction costs to the Seller or the Buyer for the Certificate Transfers that would otherwise be used.

D.6.2 WREGIS Certificates for the Facility will be created on a calendar month basis in accordance with the certification procedure established by the WREGIS Operating Rules in an amount equal to the Energy generated by the Project and delivered to the Buyer in the same calendar month.

D.6.3 WREGIS Certificates will only be created for whole MWh amounts of energy generated. Any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate and all such accumulated

MWh of Environmental Attributes will then be available to Buyer.

D.6.4 If a WREGIS Certificate Modification (as such term is defined by WREGIS) will be required to reflect any errors or omissions regarding the Green Attributes from the Facility, then the Buyer will manage the submission of the WREGIS Certificate Modification.

D.6.5 Due to the expected delay in the creation of WREGIS Certificates relative to the timing of invoice payments under Section 2, the Buyer will normally be making an invoice payment for the Output for a given month in accordance with Section 2 before the WREGIS Certificates for such month may be created in the Buyer's WREGIS account. Notwithstanding this delay, the Buyer shall have all right and title to all such WREGIS Certificates upon payment to the Seller in accordance with Section 2.

D.7 Changes in Green Attributes Reporting and Conveyance Procedures. The Buyer shall revise this Exhibit "PPA-D," as appropriate, give written notice to the Seller regarding the revision, and issue a new Exhibit "PPA-D," which shall then become part of this Agreement in the event that:

D.7.1 WREGIS changes the WREGIS Operating Rules (as defined by WREGIS) after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Exhibit "PPA-D" after the Effective Date; or,

D.7.2 WREGIS is replaced as the primary method that the Buyer uses for conveyance of Green Attributes, or additional methods to convey all Green Attributes, are required.

EXHIBIT "PPA-E"

Insurance Requirements

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, WILL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, **AFFORDED BY COMPANIES WITH A BEST'S KEY RATING OF A-VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.**

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

REQUIRED	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER'S COMPENSATION AUTOMOBILE LIABILITY	STATUTORY STATUTORY		
YES	COMMERCIAL GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$2,000,000
		PROPERTY DAMAGE	\$1,000,000	\$2,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$2,000,000
YES	COMPREHENSIVE AUTOMOBILE LIABILITY, INCLUDING, OWNED, HIRED, NON-OWNED	BODILY INJURY	\$1,000,000	\$1,000,000
		- EACH PERSON	\$1,000,000	\$1,000,000
		- EACH OCCURRENCE	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
NO	PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE	ALL DAMAGES	\$1,000,000	
YES	THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: PROPOSER, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY PROPOSER AND ITS SUBCONSULTANS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS' COMPENSATION, EMPLOYER'S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSURES CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

I. INSURANCE COVERAGE MUST INCLUDE:

A. A PROVISION FOR A WRITTEN THIRTY DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND

B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY – SEE, SAMPLE AGREEMENT FOR SERVICES.

II. SUBMIT CERTIFICATE(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE, **OR** COMPLETE THIS SECTION AND IV THROUGH V, BELOW.

A. NAME AND ADDRESS OF COMPANY AFFORDING COVERAGE (NOT AGENT OR BROKER):

B. NAME, ADDRESS, AND PHONE NUMBER OF YOUR INSURANCE AGENT/BROKER:

C. POLICY NUMBER(S):

D. DEDUCTIBLE AMOUNT(S) (DEDUCTIBLE AMOUNTS IN EXCESS OF \$5,000 REQUIRE CITY'S PRIOR APPROVAL):

III. AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AND PROPOSER'S SUBMITTAL OF CERTIFICATES OF INSURANCE EVIDENCING COMPLIANCE WITH THE REQUIREMENTS SPECIFIED HEREIN.

IV. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO "ADDITIONAL INSURES"

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSURES.

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSURES UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSUREDS, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

V. PROPOSER CERTIFIES THAT PROPOSER'S INSURANCE COVERAGE MEETS THE ABOVE REQUIREMENTS:

THE INFORMATION HEREIN IS CERTIFIED CORRECT BY SIGNATURE(S) BELOW. SIGNATURE(S) MUST BE SAME SIGNATURE(S) AS APPEAR(S) ON SECTION II, ATTACHMENT A, PROPOSER'S INFORMATION FORM.

Firm: _____

Signature: _____

Name: _____
(Print or type name)

Signature: _____

Name: _____
(Print or type name)

NOTICES SHALL BE MAILED TO:

**PURCHASING AND
CONTRACT ADMINISTRATION
CITY OF PALO ALTO
P.O. BOX 10250
PALO ALTO, CA 94303.**

EXHIBIT “PPA-F”

Notices

Contract Administration

BUYER:	SELLER:
City of Palo Alto	
Utilities Resource Management	
250 Hamilton Avenue	
Palo Alto, CA 94301	
Ph: 650-329-2689	
Email: UtilityCommoditySettlements@CityofPaloAlto.Org	

Billing and Settlements

BUYER:	SELLER:
City of Palo Alto	
Utilities Resource Management	
250 Hamilton Avenue	
Palo Alto, CA 94301	
Ph: 650-329-2689	
Email: UtilityCommoditySettlements@CityofPaloAlto.Org	

Forecasting and Outage Reporting under Section 6 of this Agreement

Planned Outages:

BUYER:	SELLER:
Northern California Power Agency Real-Time Dispatch	
651 Commerce Drive	
Roseville, CA 95678	
Ph: 916-786-3518	

Forced Outages

BUYER:	SELLER:
Northern California Power Agency Real-Time Dispatch	
651 Commerce Drive	
Roseville, CA 95678	
Ph: 916-786-3518	

Forecasting and Scheduling

BUYER:	SELLER:
Northern California Power Agency Operations and Pre-Scheduling	
651 Commerce Drive	
Roseville, CA 95678	
Ph: 916-786-0123	

EXHIBIT "PPA-G"

Form of Lender Consent and Agreement

This CONSENT AND AGREEMENT (this "Consent"), dated as of _____, 20____, is entered into by and among the CITY OF PALO ALTO, a California chartered municipal corporation (the "City"), _____, a _____ corporation (the "Lender)," by its agent, _____ (the "Administrative Agent"), and _____, a _____ corporation (the "Borrower") (collectively, the "Parties"). Unless otherwise defined, all capitalized terms have the meaning given in the Contract (as hereinafter defined).

RECITALS

A. Borrower intends to develop, construct, install, test, own, operate and use an approximately _____MW electric generating facility located in the city of Palo Alto in the State of California, known as the _____ Project (the "Project").

B. In order to partially finance the development, construction, installation, testing, operation and use of the Project, Borrower has entered into that certain financing agreement dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), among Borrower, the financial institutions from time to time parties thereto (collectively, the "Lenders") , and Administrative Agent for the Lenders, pursuant to which, among other things, Lenders have extended commitments to make loans and other financial accommodations to, and for the benefit of, Borrower.

C. The City and Borrower have entered into that certain Power Purchase Agreement, dated as of _____ (attached hereto and incorporated herein by reference, as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Power Purchase Agreement").

D. The City and Borrower have entered into that certain Interconnection Agreement, dated as of _____ (attached hereto and incorporated herein by reference, as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Interconnection Agreement").

E. Pursuant to a security agreement executed by Borrower and Administrative Agent for the Lenders (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement"), Borrower has agreed, among other things, to assign, as collateral security for its obligations under the Financing Agreement and related documents (collectively, the "Financing Documents"), all of its right, title and interest in, to and under the Power Purchase Agreement and Interconnection Agreement to Administrative Agent for the benefit of itself, the Lenders and each other entity or person providing collateral security under the Financing Documents.

F. It is a requirement under the Financing Agreement that the Parties hereto execute this Consent.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties agree, as follows:

1. CONSENT TO ASSIGNMENT. The City acknowledges the assignment referred to in Recital E above, consents to an assignment of the Power Purchase Agreement and Interconnection Agreement pursuant thereto, and agrees with Administrative Agent, as follows:

(a) Administrative Agent shall be entitled (but not obligated) to exercise all rights and to cure any

defaults of Borrower under the Power Purchase Agreement or Interconnection Agreement, as the case may be, subject to applicable notice and cure periods provided in the Power Purchase Agreement and Interconnection Agreement. Upon receipt of notice from Administrative Agent, the City agrees to accept such exercise and cure by Administrative Agent if timely made by Administrative Agent under the Power Purchase Agreement or Interconnection Agreement, as the case may be, and this Consent. Upon receipt of Administrative Agent's written instructions and to the extent allowed by law, the City agrees to make directly to such account as Administrative Agent may direct the City, in writing, from time to time, all payments to be made by the City to Borrower under the Power Purchase Agreement or Interconnection Agreement, as the case may be, from and after the City's receipt of such instructions, and Borrower consents to any such action. The City shall not incur any liability to Borrower under the Power Purchase Agreement, Interconnection Agreement, or this Consent for directing such payments to Administrative Agent in accordance with this subsection (a).

(b) The City will not, without the prior written consent of Administrative Agent (such consent not to be unreasonably withheld), (i) cancel or terminate the Power Purchase Agreement or Interconnection Agreement, or consent to or accept any cancellation, termination or suspension thereof by Borrower, except as provided in the Power Purchase Agreement or Interconnection Agreement and in accordance with subparagraph 1(c) hereof, (ii) sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its interest in the Power Purchase Agreement or Interconnection Agreement, except as provided in the Power Purchase Agreement or Interconnection Agreement, or (iii) amend or modify the Power Purchase Agreement or Interconnection Agreement in any manner materially adverse to the interest of the Lenders in the Power Purchase Agreement and Interconnection Agreement as collateral security under the Security Agreement.

(c) The City agrees to deliver duplicates or copies of all notices of default delivered by the City under or pursuant to the Power Purchase Agreement or Interconnection Agreement to Administrative Agent in accordance with the notice provisions of this Consent. The City shall deliver any such notices concurrently with delivery of the notice to Borrower under the Power Purchase Agreement or Interconnection Agreement. To the extent that a cure period is provided under the Power Purchase Agreement or Interconnection Agreement, Administrative Agent shall have the same period of time to cure the breach or default that Borrower is entitled to under the Power Purchase Agreement or Interconnection Agreement, except that if the City does not deliver the default notice to Administrative Agent concurrently with delivery of the notice to Borrower under the Power Purchase Agreement or Interconnection Agreement, then as to Administrative Agent, the applicable cure period under the Power Purchase Agreement or Interconnection Agreement shall begin on the date on which the notice is given to Administrative Agent. If possession of the Project is necessary to cure such breach or default, and Administrative Agent or its designee(s) or assignee(s) declare Borrower in default and commence foreclosure proceedings, Administrative Agent or its designee(s) or assignee(s) will be allowed a reasonable period to complete such proceedings so long as Administrative Agent or its designee(s) continue to perform any monetary obligations under the Power Purchase Agreement or Interconnection Agreement, as the case may be. The City consents to the transfer of Borrower's interest under the Power Purchase Agreement and Interconnection Agreement to the Lenders or Administrative Agent or their designee(s) or assignee(s) or any of them or a purchaser or grantee at a foreclosure sale by judicial or nonjudicial foreclosure and sale or by a conveyance by Borrower in lieu of foreclosure and agrees that upon such foreclosure, sale or conveyance, the City shall recognize the Lenders or Administrative Agent or their designee(s) or assignee(s) or any of them or other purchaser or grantee as the applicable party under the Power Purchase Agreement and Interconnection Agreement (provided that such Lenders or Administrative Agent or their designee(s) or assignee(s) or purchaser or grantee assume the obligations of Borrower under the Power Purchase Agreement and Interconnection Agreement, including, without limitation, satisfaction and compliance with all credit provisions of the Power Purchase Agreement and Interconnection Agreement, if any, and provided further that such Lenders or Administrative Agent or their designee(s) or assignee(s) or purchaser or grantee has a creditworthiness equal to or better than

Borrower, as reasonably determined by City).

(d) In the event that either the Power Purchase Agreement or Interconnection Agreement, or both is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, and if, within forty-five (45) days after such rejection, Administrative Agent shall so request, the City will execute and deliver to Administrative Agent a new power purchase agreement or interconnection agreement, as the case may be, which power purchase agreement or interconnection agreement shall be on the same terms and conditions as the original Power Purchase Agreement or Interconnection Agreement for the remaining term of the original Power Purchase Agreement or Interconnection Agreement before giving effect to such rejection, and which shall require Administrative Agent to cure any defaults then existing under the original Power Purchase Agreement or Interconnection Agreement. Notwithstanding the foregoing, any new renewable power purchase agreement or interconnection agreement will be subject to all regulatory approvals required by law. The City will use good faith efforts to promptly obtain any necessary regulatory approvals.

(e) In the event Administrative Agent, the Lenders or their designee(s) or assignee(s) elect to perform Borrower's obligations under the Power Purchase Agreement and Interconnection Agreement, succeed to Borrower's interest under the Power Purchase Agreement and Interconnection Agreement, or enter into a new power purchase agreement or interconnection agreement as provided in subparagraph 1(d) above, the recourse of the City against Administrative Agent, Lenders or their designee(s) and assignee(s) shall be limited to such Parties' interests in the Project, and the credit support required under the Power Purchase Agreement and Interconnection Agreement, if any.

(f) In the event Administrative Agent, the Lenders or their designee(s) or assignee(s) succeed to Borrower's interest under the Power Purchase Agreement and Interconnection Agreement, Administrative Agent, the Lenders or their designee(s) or assignee(s) shall cure any then-existing payment and performance defaults under the Power Purchase Agreement or Interconnection Agreement, except any performance defaults of Borrower itself, which by their nature are not susceptible of being cured. Administrative Agent, the Lenders and their designee(s) or assignee(s) shall have the right to assign all or a pro rata interest in the Power Purchase Agreement and Interconnection Agreement to a person or entity to whom Borrower's interest in the Project is transferred, provided such transferee assumes the obligations of Borrower under the Power Purchase Agreement and Interconnection Agreement and has a creditworthiness equal to or better than Borrower, as reasonably determined by the City. Upon such assignment, Administrative Agent and the Lenders and their designee(s) or assignee(s) (including their agents and employees) shall be released from any further liability thereunder accruing from and after the date of such assignment, to the extent of the interest assigned.

2. REPRESENTATIONS AND WARRANTIES. The City hereby represents and warrants that as of the date of this Consent:

(a) It (i) is duly formed and validly existing under the laws of the State of California, and (ii) has all requisite power and authority to enter into and to perform its obligations hereunder and under the Power Purchase Agreement and Interconnection Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;

(b) the execution, delivery and performance of this Consent, the Power Purchase Agreement and the Interconnection Agreement have been duly authorized by all necessary action on its part and do not require any approvals, material filings with, or consents of any entity or person which have not previously been obtained or made;

(c) each of this Consent, the Power Purchase Agreement, and the Interconnection Agreement is in full force and effect;

(d) each of this Consent, the Power Purchase Agreement, and the Interconnection Agreement has been duly executed and delivered on its behalf and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (whether considered in a proceeding in equity or at law);

(e) there is no litigation, arbitration, investigation or other proceeding pending for which the City has received service of process or, to the City's actual knowledge, threatened against the City relating solely to this Consent, the Power Purchase Agreement, or the Interconnection Agreement and the transactions contemplated hereby and thereby;

(f) the execution, delivery and performance by it of this Consent, the Power Purchase Agreement, and the Interconnection Agreement, and the consummation of the transactions contemplated hereby, will not result in any violation of, breach of or default under any term of any material contract or material agreement to which it is a party or by which it or its property is bound, or of any material requirements of law presently in effect having applicability to it, the violation, breach or default of which could have a material adverse effect on its ability to perform its obligations under this Consent;

(g) neither the City nor, to the City's actual knowledge, any other party to the Power Purchase Agreement or Interconnection Agreement, is in default of any of its obligations thereunder; and

(h) to the City's actual knowledge, (i) no Force Majeure Event exists under, and as defined in, the Power Purchase Agreement or Interconnection Agreement and (ii) no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either the City or Borrower to terminate or suspend its obligations under the Power Purchase Agreement or the Interconnection Agreement.

Each of the representations and warranties set forth herein shall survive the execution and delivery of this Consent and the consummation of the transactions contemplated hereby.

3. NOTICES. All notices required or permitted hereunder shall be given, in writing, and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or three (3) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to the City:

[_____]

[_____]

[_____]

Telephone No.: [_____]

Facsimile No.: [_____]

Attn: [_____]

If to Administrative Agent:

[_____]

[_____]

[_____]

Telephone No.: [_____]

Facsimile No.: [_____]

Attn: [_____]

If to Borrower:

[_____]
[_____]
[_____]
Telephone No.: [_____]
Facsimile No.: [_____]
Attn: [_____]

Any party shall have the right to change its address for notice hereunder to any other location within the United States by giving thirty (30) days written notice to the other parties in the manner set forth above.

4. **ASSIGNMENT, TERMINATION, AMENDMENT.** This Consent shall be binding upon and benefit the successors and assigns of the Parties hereto and their respective successors, transferees and assigns (including without limitation, any entity that refinances all or any portion of the obligations under the Financing Agreement). The City agrees (a) to confirm such continuing obligation, in writing, upon the reasonable request of (and at the expense of) Borrower, Administrative Agent, the Lenders or any of their respective successors, transferees or assigns, and (b) to cause any successor-in-interest to the City with respect to its interest in the Power Purchase Agreement or Interconnection Agreement to assume, in writing and in form and substance reasonably satisfactory to Administrative Agent, the obligations of City hereunder. Any purported assignment or transfer of the Power Purchase Agreement or Interconnection Agreement not in conjunction with the written instrument of assumption contemplated by the foregoing clause (b) shall be null and void. No termination, amendment, or variation of any provisions of this Consent shall be effective unless in writing and signed by the parties hereto. No waiver of any provisions of this Consent shall be effective unless in writing and signed by the party waiving any of its rights hereunder.

5. **GOVERNING LAW.** This Consent shall be governed by the laws of the State of California applicable to contracts made and to be performed in California. The federal courts or the state courts located in California shall have exclusive jurisdiction to resolve any disputes with respect to this Consent with the City, Assignor, and the Lender or Lenders irrevocably consenting to the jurisdiction thereof for any actions, suits, or proceedings arising out of or relating to this Consent.

6. **COUNTERPARTS.** This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

7. **SEVERABILITY.** In case any provision of this Consent, or the obligations of any of the Parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other Parties hereto, shall not in any way be affected or impaired thereby.

8. **ACKNOWLEDGMENTS BY BORROWER.** Borrower, by its execution hereof, acknowledges and agrees that neither the execution of this Consent, the performance by the City of any of the obligations of the City hereunder, the exercise of any of the rights of the City hereunder, or the acceptance by the City of performance of the Power Purchase Agreement by any party other than Borrower shall (1) release Borrower from any obligation of Borrower under the Power Purchase Agreement or Interconnection Agreement, (2) constitute a consent by the City to, or impute knowledge to the City of, any specific terms or conditions of the Financing Agreement, the Security Agreement or any of the other Financing Documents, or (3) except as expressly set forth in this Consent, constitute a waiver by the City of any of its rights under the Power Purchase Agreement or Interconnection Agreement. Borrower and Administrative Agent acknowledge hereby for the benefit of City that none of the Financing Agreement, the Security

Agreement, the Financing Documents or any other documents executed in connection therewith alter, amend, modify or impair (or purport to alter, amend, modify or impair) any provisions of the Power Purchase Agreement.

CITY OF PALO ALTO

ADMINISTRATIVE AGENT

APPROVED AS TO FORM

Senior Deputy City Attorney

BORROWER

APPROVED

City Manager

Director of Utilities