

SOLICITATION OF INTEREST TO SELL CARBON FREE ENERGY

San Jose Clean Energy (SJCE) is seeking proposals from power suppliers (Sellers) to supply 2,067,000 MWh of Carbon Free Energy for the period from January 2019 through December 2019.

As used above, “Carbon Free Energy” means energy generated by a Carbon Free Source and delivered to the CAISO control area. “Carbon Free Source” means any energy source, that is located within the Western Energy Coordinating Council area and that is considered by the State of California to have zero Greenhouse Gas emissions in accordance with the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively) promulgated by the California Air Resources Board of the California Environmental Protection Agency (“CARB”) pursuant to the California Global Warming Solutions Act of 2006.

Master Agreement & Confirmation

SJCE intends to transact under the WSPP Agreement or an EEI-based agreement. Attached please find SJCE’s preferred form of WSPP Transaction Confirmation for Carbon Free Energy; SJCE will subsequently convey its preferred EEI coversheet. Updated solicitation information will be available on SJCE’s website.

Parties are encouraged to submit any proposed changes to these forms (or requested alternative preferred enabling agreements and/or confirms) to Stephen Hall Steve.Hall@troutmansanders.com, Jeanne M. Solé Jeanne.Sole@sanjoseca.gov, Ken Goeke Ken.Goeke@ncpa.com, and Bernard Erlich Bernard.Erlich@ncpa.com, on or before Friday, August 17, 2018 to enable SJCE to review the preferred form confirmations prior to its consideration of Bids on the Due Date.

In addition, SJCE is in the process of qualifying potential counterparties pursuant to its Risk Management Policies. Parties are encouraged to contact SJCE as soon as possible if they intend to respond to this Request for Proposals. SJCE will only be able to transact with entities that have been qualified by its finance department.

If a prospective supplier does not disclose financial information publicly, to undertake the counterparty’s qualification, SJCE will require the information described below for the past two (2) fiscal years. Also, a prospective supplier with its primary business in sectors other than energy should provide financial information and a description of its energy product operations and trading.

- Consolidated Statement of Income
- Consolidated Statement of Cash Flows
- Consolidated Balance Sheets
- Results of Operations
- Notes to Financial Statements
- Off-Balance Sheet Liabilities, if any

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In addition, SJCE provides the following information to interested suppliers to facilitate their assessment of SJCE as a counterparty:

Attached please find our W9.

San Jose Clean Energy is housed in the City of San Jose's Department of Community Energy. The program is provided for in San Jose's municipal code Title 26, available at the following link: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT26COEN

San Jose's implementation plan is available at <http://www.sanjoseca.gov/DocumentCenter/View/71410>

San Jose's risk management policy was approved by City Council and is available at <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3478118&GUID=32319D40-8EA7-4D1A-9E48-B1CC78BB2E5E&Options=&Search>

SJCE's initial funding plan is described in a memo to City Council in August 2017. The SJCE has followed through with this plan:

http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2699&meta_id=650894

The ordinance establishing the department's initial funding is attached.

City Council authorized San Jose to procure power using the WSPP and set rates for the first phase on June 12, 2018 see

<https://records.sanjoseca.gov/Resolutions/RES78636.pdf>

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=3514661&GUID=3C1BB5AD-35C5-4912-8159-94708645D335&Options=&Search=>

The City of San Jose is the signatory to WSPP Agreement and will be the signatory to the confirmations.

The Department of Community Energy is an enterprise department of San Jose. Please see below language that we have added to our draft confirmation to explain this arrangement.

Designated Fund and Limited Obligations

- (a) Designated Fund. Buyer's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund that shall be used solely for San Jose Clean Energy costs and expenses, including the obligations under this Agreement. Buyer agrees to establish San Jose Clean Energy rates and charges that are sufficient to maintain revenues in the designated fund necessary to pay its obligations under this Agreement and all of Buyer's payment obligations under its other contracts for the purchase of energy for San Jose Clean Energy. Buyer shall provide Seller with reasonable access to account balance information with respect to the San Jose Clean Energy designated fund during the Term.
- (b) Limited Obligations. Buyer's payment obligations are special limited obligations of the Buyer payable solely from the revenues of San Jose Clean Energy. Buyer's payment obligations under

this Agreement are not a charge upon the revenues or general fund of the City of San Jose or upon any non- San Jose Clean Energy moneys or other property of the Community Energy Department or the City of San Jose.

Here is a link to our municipal advisor letter. <https://www.sanjoseca.gov/DocumentCenter/View/39975>

Finally, to do business in San Jose, Sellers who are not already registered will have to register with the City of San Jose within 90 days of commencing business within the city. Details are available at the following:

<http://www.sanjoseca.gov/BusinessTax>

Submission of Bids

All bids submitted by prospective sellers in response to this Request for Proposals, shall include at a minimum the following information (i) price (\$/MWh), (ii) contact information, (iii) minimum and maximum monthly quantities offered (MWh), and, when applicable the information listed below:

- I. Facility Name
- II. WREGIS ID
- III. CEC Certification No.
- IV. Seller's Entitlement Interest
- V. Estimated Annual Generation in MWh

All offers must be delivered to and received by SJCE via electronic transmittal by 3:00 P.M. (PT) on Friday, August 24, 2018. SJCE will inform short listed prospective sellers by Monday, September 3, 2018. SJCE intends to seek City Council approval to transact with short listed bidders in early September.

Upon receipt of offers from prospective sellers, SJCE may select none, one or more of the proposals as the basis for negotiating a confirmation to the transaction.

For questions regarding this Request for Proposals, please contact Bernard Erlich at (916) 781-4240, or via Email at bernard.erlich@ncpa.com.

Disclaimers

SJCE reserves the sole and discretionary right to (i) reject any offers received in response to this Request for Proposals for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, SJCE reserves the right, at its sole discretion, to not enter into any confirmation for the transaction at the conclusion of this Request for Offers. SJCE reserves the right to modify the terms and conditions of this Request for Offers at any time based on changing needs and market feedback. SJCE also reserves the right to rescind this Request for Offers at any time prior to SJCE's execution of a binding agreement. Notwithstanding anything to the contrary, including the WSPP Agreement, no proposal, bid, offer, or proposed transaction (however described) shall be binding upon SJCE except pursuant to a written agreement signed by SJCE and the counterparty. SJCE will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this Request for Offers.

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

The address for submitting protests is:

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

Please submit an electronic version of the protest to Lori Mitchell Lori.Mitchell@sanjoseca.gov, and Jeanne M. Solé Jeanne.Sole@sanjoseca.gov