

**RE-OPENING SJCE’S SOLICITATION OF INTEREST FOR
2019 PORTFOLIO CONTENT CATEGORY 1 & 2 PRODUCTS
RENEWABLE ENERGY CERTIFICATES AND LOW OR NO CARBON PRODUCTS
AND RENEWABLE POWER PURSUANT TO A MULTI-YEAR CONTRACT**

San Jose Clean Energy (SJCE) has solicited, received and is considering responses to solicitations issued on August 10 and August 14. Based on the prior solicitations, SJCE has created a short list based on the responses received, and is actively negotiating with short listed bidders. SJCE is now reopening the solicitation to seek additional proposals from power suppliers (Sellers) to supply Portfolio Content Category 1 (PCC 1) and Portfolio Content Category 2 (PCC 2) as well as the corresponding Renewable Energy Credits (RECs) generated during 2018 pursuant to a confirmation. In addition, SJCE is seeking additional proposals from Sellers to supply greenhouse gas (GHG) free or very low GHG content power. Through this process, SJCE intends to create an expanded pool of Sellers with whom it may continue to undertake transactions. In addition, SJCE will review additional offers in response to this solicitation as they are submitted by prospective suppliers, and will let responders know within seven business days of receipt of an offer if the supplier has been added to the short list. This solicitation will remain open until further notice by SJCE.

Table 1 below describes the quantities SJCE intends to purchase through this active solicitation.

Table 1

Product
Portfolio Content Category 1 (PCC 1) 1,758,000 MWh
Portfolio Content Category 2 (PCC 2) 310,800 MWh
Low or no Carbon 2,067,000 MWh

Long Term Offers

As an alternative to the calendar year 2019 PCC1 purchase, SJCE would consider executing a multi-year Power Purchase Agreement for the quantities listed in the enclosed workbook pursuant to a separate confirm or EEI agreement. For any such proposals, please in addition to providing basic information listed below also fill out the long-term product template attached. Please note there are two tabs to fill out.

Additional Information on the SJCE website

Finally, please check the SJCE website for updated information including compilations of responses to supplier questions at: <https://www.sanjosecleanenergy.org/energy-procurement>

Master Agreement & Confirmation

SJCE intends to transact under the WSPP Agreement or an EEI-based agreement. For reference, please find attached hereto SJCE’s preferred form of WSPP Transaction Confirmation for PCC1 RECs and for Carbon Free Power and SJCE’s preferred EEI coversheet and PCC1 Confirmation. Parties are encouraged to submit any proposed changes to these forms (or alternative preferred enabling agreements and/or confirms), including changes that would apply for PCCC-2, 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 submitting their bids.

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

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.
- 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 Offers

All offers submitted by prospective sellers in response to this Request for Proposals, shall be submitted on your companies' respective letterhead, and shall include at a minimum the following information: (i) price (\$/REC or \$/GHG-free attribute) or fixed price (\$/MWh and REC, \$/MWh and GHG-free attribute), (ii) contact information, (iii) minimum and maximum monthly quantities offered (REC), (iv) product (PCC1 or PCC2), (v) vintage, and, when applicable the information listed below, in the Excel template attached:

- a Facility name,
- b Resource ID,
- c WREGIS ID,
- d CEC certification No.,
- e Seller's entitlement Interest,
- f Estimated annual generation in MWh.

As stated above, Sellers offering a long term product shall also please fill out the additional long-term product template attached. Please note there are two tabs to fill out.

SJCE intends to seek City Council approval to transact with short listed bidders in mid-September.

Please submit your offers electronically to the following email addresses:

Bernard.erlich@ncpa.com with CC to Ken Goeke Ken.Goeke@ncpa.com and Jeanne M. Solé Jeanne.Sole@sanjoseca.gov

For questions regarding this Request for Proposals, please contact Jeanne Sole at (408) 535-4867, or via Email at jeanne.sole@sanjoseca.gov, or Bernard Erlich at (916) 781-4240, or via Email at bernard.erlich@ncpa.com.

Public Nature of Proposal Material

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

Therefore, any proposal which contains language purporting to render all or significant portions of their proposal "Confidential", "Trade Secret" or "Proprietary", or fails to provide the exemption information

required as described below will be considered a public record in its entirety subject to the procedures described below. Do not mark your entire proposal as “confidential”.

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

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

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over the City, including the California Public Records Act, the City may release Confidential Information, or a portion thereof, as required by the Applicable Law, statute, ordinance, decision, order or regulation. In the event the City is required to release Confidential Information, it shall notify the Seller of the required disclosure, such that the Seller may attempt (if it so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain.

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.

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