



**Request for Information:
Peak Energy Solutions**

Responses due Tuesday, April 12, 2022 at 5:00 PM PPT

RFI Overview

San José Clean Energy (“SJCE”) is the City of San José’s electricity supplier. SJCE is a program operated by the Community Energy Department of the City of San José. The San José City Council unanimously voted to create SJCE in May 2017. SJCE began delivering power to residents and businesses in February 2019. SJCE provides cleaner electricity, at lower rates than the incumbent investor-owned utility (“IOU”), Pacific Gas and Electric Company (“PG&E”). SJCE plans for and secures commitments from a diverse portfolio of energy generating resources to reliably serve the electric energy requirements of its customers over the near-, mid-, and long-term planning horizons. For more information on SJCE, please go to www.sanjosecleanenergy.org.

The goal of this Request for Information (“RFI”) about peak energy solutions is to inform a possible subsequent request for offers for energy, capacity and/or other solutions that assist in meeting demand during SJCEs peak load hours. Specifically, SJCE is interested in learning about energy supply products to address demand in Hours Ending 18-21 (Calendar Year, May-October or July-September). Products could include standard ISTs, pay for charging hours/paid for discharge hours, financial products and energy call options to name a few. SJCE does not currently have authority to buy options but could use the information from this RFI to inform policy makers of available alternatives and their relative risks and benefits. SJCE is interested in the availability of these solutions and delivery details such as earliest start date, volume availability, pricing, term requirements, scheduling needs and other relevant information.

By participating in SJCE’s RFI process, a Participant acknowledges that it has read, understands, and agrees to the terms and conditions set forth in these RFI Instructions, including all attachments. SJCE may, in its sole discretion and without notice, modify, suspend, or terminate the RFI without liability to any organization or individual. The RFI does not constitute an offer to buy or create an obligation for SJCE to enter into an agreement with any party, and SJCE shall not be bound by the terms of any offer until SJCE has entered into a fully executed agreement.

RFI Process and Timeline

This RFI was released on Tuesday, April 5, 2022.

All Questions regarding this RFI should be submitted by Friday April 8, 2022 at Noon PT. Answers will be posted to the San Jose Clean Energy website as soon as practical.

Participants’ Responses must be submitted by Tuesday, April 12, 2022 at 5:00 PM PPT.

Only electronic submittals will be accepted via e-mail sent to RFO@sanjosecleanenergy.org.

The submission of a response shall be deemed a representation and certification by the Participant that they have investigated all aspects of the RFI, that they are aware of the applicable facts pertaining to the RFI process, its procedures and requirements, and that they have read and understood the RFI. No request for modification of the response shall be considered after its submission on grounds that Participant was not fully informed as to any fact or condition.

Requested Information

The following documents are requested from each respondent:

- A cover letter introducing your organization and covering any information you wish to share that is not appropriate to include in the response form.
- Peak Energy Solutions – Supporting Information Excel workbook. Respondents may respond to as many or as few questions as they wish.
- A response form filled out with as much information as you are willing to share. Respondents may respond to as many or as few questions as they wish.

Interpretation

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

Should there be a need to clarify this RFI or any of its attachments, requests for clarification may be sent via e-mail at RFO@sanjosecleanenergy.org, to the attention of the procurement contact designated in the Communications Section.

Grounds for Disqualification

All RFI Participants are expected to have read and understand the "Procurement and Contract Process Integrity and Conflict of Interest", Section 7 of the Consolidated Open Government and Ethics Provisions adopted on August 26, 2014 ("Section 7"). A complete copy of the Resolution 77135: <http://www.sanjoseca.gov/DocumentCenter/View/35087>.

Any RFI Participants who violates Section 7 will be subject to disqualification. Generally, the grounds for disqualification include:

1. Contact regarding procurement with any City official or employee or Evaluation team other than the RFI procurement contact designated in this RFI.
2. Evidence of collusion, directly or indirectly, among RFI Participants regarding the amount, terms, pricing, or conditions of a proposal.
3. Influencing any City staff member or evaluation team member throughout this RFI process, including the development of specifications.
4. Evidence of submitting incorrect information in the response to this RFI or misrepresent or fail to disclose material facts during an evaluation process.

In addition to violations of the Section 7, the following conduct may also result in disqualification:

1. Offering gifts or souvenirs, even of minimal value, to City officers or employees.
2. Existence of any lawsuit, unresolved contractual claim or dispute between RFI Participant and the City.
3. Evidence of RFI Participant's inability to successfully complete the responsibilities and obligations of a proposal.
4. RFI Participant's default under any City agreement, resulting in termination of such Agreement.

Code Adherence and Policies

RFI Participant shall agree to abide by all laws, rules and regulations of the United States, State of California, Santa Clara County, and the City of San José.

Terms and Conditions of Agreement

This RFI is not intended to result in contracts or agreements. Instead, SJCE intends to use the information from this RFI to issue an RFO.

All agreements entered into by SJCE pursuant to a solicitation are subject to the Appropriation of Funds, Designated Fund, and Limited Obligations provisions set forth in the Term Sheet, Attachment 1. These provisions are non-negotiable.

Participant shall enter into a contract with SJCE in substantial conformity with the selected proposal, as mutually modified during negotiations with SJCE. Attachment 1, Term Sheet for Power Purchase Agreement – Renewables Only, outlines SJCE's standard terms and conditions as part of the agreement between SJCE and the successful Participant. SJCE reserves the right to negotiate project deliverables and associated costs.

All agreements will require the Participant to adhere to the terms of any applicable proposal and to act in accordance with all applicable laws and regulations. An agreement shall not be binding or valid unless and until it is executed by authorized representatives of the City and approved by the City of San José's City Council. The City Council may also authorize the Director of Community Energy or her designee to negotiate and execute power supply contracts.

SJCE's municipal advisor letter can be found at the following location:

www.sanjoseca.gov/DocumentCenter/View/39975

Public Nature of Proposal Material

All correspondence with SJCE including responses to this RFI 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 response which contains language purporting to render all or significant portions of their response "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 response as "confidential". All responses received via this RFI will be subject to public disclosure.

In order to designate information as confidential, the Respondent 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. Respondent should not 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 respondents as confidential information (such designated information, the "Confidential Information"), SJCE will notify the respondent as soon as practical that such request has been made. The respondent 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 respondent takes no such action after receiving the foregoing notice from the City, 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 respondent of the required disclosure, such that the respondent 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.

Disclaimer

The City shall not be obligated to respond to any response submitted, nor be legally bound in any manner by submission of the response. SJCE reserves the right to modify the terms and conditions of this RFI at any time based on changing needs and market feedback. SJCE also reserves the right to rescind this RFI at any time. SJCE will not be liable at any time for any costs a respondent may incur in preparing or submitting its response to this RFI.

Communications

All RFI documents are available on SJCE's website at www.sanjosecleanenergy.org/energy-procurement

All announcements and updates will be posted on the website. Questions and all other communications should be sent to RFO@sanjosecleanenergy.org