

PROPOSAL SUBMISSION AGREEMENT

THIS PROPOSAL SUBMISSION AGREEMENT (this “Agreement”) is made and entered into effective on _____, 2019 (the “Effective Date”), by _____, a _____ (“Bidder”), in favor of Entergy Texas, Inc. (“ETI”).

RECITALS

WHEREAS, in response to ETI’s 2019 Request for Proposals for Solar Photovoltaic Resources, dated (as amended, supplemented or otherwise modified, the “RFP”), Bidder is submitting and delivering to ETI (i) one or more Proposals (defined below) and (ii) this Agreement; and

WHEREAS, Bidder desires to continue to participate, and ETI desires to permit Bidder to continue to participate, in a competitive bidding process for the potential build-own-transfer acquisition of a solar photovoltaic resources pursuant to the RFP (the “RFP Process”) on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, Bidder intends for the terms of this Agreement to be enforceable by ETI against Bidder;

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bidder hereby agrees as follows:

1. Definitions. Each of the following terms, when used in this Agreement with initial letters capitalized, has the meaning ascribed to it below:

“PUCT” means the Public Utility Commission of Texas.

“Bid Event Coordinator” means the administrator of the RFP set forth in Section 1.3 of the main body of the RFP.

“Bidder Representative” means any officer, employee, agent, consultant, advisor or representative of Bidder or any of Bidder’s affiliates. For the avoidance of doubt, ETI is not, and shall not be considered, a Bidder Representative in connection with the RFP or the RFP Process.

“Confidentiality Agreement” means the Confidentiality Agreement between ETI and Bidder (or an affiliate of Bidder) with respect to the RFP, as may be amended from time to time.

“Definitive Agreement” means a legally binding agreement, mutually executed and delivered by duly authorized representatives of ETI and Bidder (or the seller under the proposal submitted by Bidder that is the basis of such agreement), setting forth the definitive terms and

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conditions of a Transaction. For the avoidance of doubt, a “Definitive Agreement” does not include a letter of intent, a memorandum of understanding, other similar preliminary written agreement or document with respect to a Transaction, or any acceptance, written, oral, or other, of any offer or proposal submitted by Bidder (or the seller pursuant to or in connection with the Proposal).

“ETI Representative” means any officer, employee, agent, affiliate, consultant, advisor or representative of ETI.

“FERC” means the Federal Energy Regulatory Commission or any successor thereto.

“Independent Monitor” or “IM” means Mr. Wayne Oliver of Merrimack Energy Group Inc., an independent consulting firm retained by ETI to act as independent monitor for the RFP.

“Law” means any constitution, statute, law, rule, regulation, ordinance, code, or other applicable legislative or administrative action of any governmental authority, or any judicial, regulatory, or administrative interpretation thereof having the force or effect of the foregoing, in each case as applicable to or binding upon the affected person or entity or any of its properties or to which such person or entity or any of its property is subject.

“Proposal” means any offer to enter into a Transaction submitted (or to be submitted) by Bidder pursuant to the RFP.

“Term Sheet” means the term sheet that set forth some of the key commercial terms that would apply to any Transaction arising out of the RFP.

“Transaction” means a commercial transaction arising or resulting from the RFP in which Bidder (or the seller under the proposal submitted by Bidder that is the basis of such transaction) sells or agrees to sell to ETI, under a build-own-transfer arrangement, a specified solar photovoltaic generation resource pursuant to a Definitive Agreement.

2. Certain Bidder Representations, Warranties, and Covenants. Bidder represents and warrants and, as applicable, covenants to ETI as follows:

(a) Bidder has all requisite power and authority to execute and deliver this Agreement and perform its obligations hereunder. The execution, delivery, and performance of this Agreement by Bidder have been duly authorized by all necessary action on the part of Bidder and do not violate, conflict with, or result in a breach of any provision of its organizational or governing documents. This Agreement constitutes a legally valid and binding obligation enforceable against Bidder in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar Laws relating to creditors’ rights generally or general principles of equity (whether considered in a proceeding at law or in equity). Bidder 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, has had complete discretion in seeking and obtaining the advice and counsel of experts relating to specialized subject matter of this Agreement, and is capable of

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assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Agreement.

(b) The execution and delivery of each Proposal by Bidder have been duly authorized by all necessary action on the part of Bidder. Each Proposal has been executed and delivered by a duly authorized officer or other authorized representative of Bidder. By submitting a Proposal, Bidder is offering to enter into a Definitive Agreement providing for the Transaction contemplated by such Proposal on substantially the same terms and conditions set forth in such Proposal and the Term Sheet corresponding to such Proposal made available to Bidders through Power Advocate. Each Proposal submitted by Bidder is Bidder's good faith best offer. Bidder has reviewed, is familiar with, and understands the terms and conditions of the RFP, including the Term Sheets. With respect to any Proposal selected by ETI for possible negotiation of a Definitive Agreement, Bidder agrees to enter into good faith negotiations with ETI to finalize, and shall use reasonable best efforts (or do, or cause to be done, all things necessary or appropriate) to finalize, execute, and deliver a Definitive Agreement providing for the Transaction contemplated by such Proposal on substantially the same terms and conditions set forth in such Proposal.

(c) Bidder represents and warrants that it is in compliance with the terms of the Confidentiality Agreement and has not disclosed, and covenants that it will not disclose, the existence of, or the price or any other term or condition of, any Proposal or any other submission of Bidder to ETI or any ETI Representative in connection with the RFP Process, except to the extent such information has entered the public domain through no failure of Bidder or Bidder's Representatives to comply with the terms hereof or any other agreement to which Bidder or a Bidder's Representative is party or by which Bidder or a Bidder's Representative is bound or is authorized to be disclosed by the Confidentiality Agreement or by ETI's prior express written consent.

(d) To the knowledge of each Bidder Representative who has actually participated in the preparation of a Proposal on behalf of Bidder, there is no uncured violation by Bidder of applicable state or federal antitrust Laws or other applicable Laws that pertain to competitive bidding practices in connection with such Proposal.

(e) Bidder has not entered into, and covenants that it will not enter into, any understanding, agreement, plan or scheme pertaining to a Proposal, whether express or implied, formal or informal, oral or written, with any competitor of Bidder with respect to prices, terms or conditions of sale, output, production, distribution, territories, or customers, which understanding, agreement, plan or scheme pertaining to such Proposal would be in violation of applicable Law.

3. ETI Disclaimer. Bidder understands, acknowledges and agrees that (i) except as may be expressly provided in a Definitive Agreement, any and all information furnished by or on behalf of ETI in connection with the RFP Process, including, without limitation, information contained in the RFP, is provided without any representation or warranty of any kind as to the information so provided, including, without limitation, accuracy or completeness; (ii) except as otherwise provided in Section 4 below, neither ETI nor any ETI Representative shall have any

liability to Bidder or any Bidder Representative relating to or arising from the use of or reliance upon any such information or any error or omission therein or otherwise in connection with the RFP Process; and (iii) the information and processes described by ETI in the RFP or otherwise provided by either ETI or ETI Representative in connection with the RFP Process are merely statements or indications of ETI's current intent, and such statements or indications create no binding obligation or actionable promise or inducement on the part of ETI or ETI Representative.

4. ETI Obligations Limited to Definitive Agreement. Bidder understands, acknowledges, and agrees that no enforceable contract or agreement providing for or promising a Transaction shall be deemed to exist or shall be enforceable against ETI or any ETI Representative unless and until a Definitive Agreement for such Transaction has been executed and delivered by authorized representatives of ETI and Bidder (or other authorized seller) and all other parties thereto. Bidder also understands, acknowledges and agrees that (i) unless and until a Definitive Agreement between ETI and Bidder (or other authorized seller) and all other parties thereto with respect to a Transaction has been executed and delivered, neither ETI nor any ETI Representative has or shall have any legal obligation to Bidder of any kind whatsoever with respect to such Transaction, whether by virtue of this Agreement, the RFP, or any other written, electronic, or oral expression with respect to the RFP Process or such Transaction and (ii) if a Definitive Agreement between ETI and Bidder (or other authorized seller) with respect to a Transaction has been executed and delivered, the only legal obligations of ETI with respect to such Transaction shall be those expressly set forth in the terms and conditions of such Definitive Agreement and applicable Law.

5. ETI RFP Process Discretion. Bidder understands, acknowledges, and agrees that, subject to applicable Laws, (i) ETI shall be free to conduct the process associated with any Transaction, including, without limitation, the RFP Process, as ETI determines in its sole and absolute discretion, (ii) the RFP and any procedures relating to the RFP Process may be changed at any time, following consultation with the IM, without notice to Bidder or any other person, and (iii) the provisions of Section 5.6 (Reservation of ETI Rights and Other ETI RFP Protections) in the main body of the RFP (available to Bidder through Power Advocate) apply to, are accepted by, and are enforceable against Bidder, and such provisions are incorporated herein by reference. Except in a proceeding before FERC, the PUCT, or a court described in Section 10 below, Bidder shall not assert, and hereby knowingly, voluntarily, and unconditionally forever waives and disclaims any right to assert, in any regulatory or judicial forum, any claim or complaint, and any and all rights derivative or arising out of any such claim or complaint, regarding or related to the conduct or result of the RFP Process.

6. Bidder Qualifications. Bidder has previously provided, or is providing in the Proposal, or from time to time after Bidder's execution of this Agreement may provide, to ETI certain information with respect to Bidder's qualifications to participate in the RFP Process. Bidder represents and warrants to ETI that all such information Bidder has previously provided or is providing in the Proposal is true and accurate in all material respects as of the Effective Date and that any such information Bidder may hereafter provide concerning the Proposal will be true and accurate in all material respects as of the date Bidder provides it to ETI. Bidder agrees that, so long as Bidder continues to participate in the RFP Process and the applicable RFP

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document(s) do not otherwise provide, Bidder will inform ETI promptly of any material change in any of the information so provided by Bidder and will promptly provide ETI with subsequently filed or prepared information (including, without limitation, any financial statements and reports) of the type previously provided or contemplated.

7. Bidder Indemnification. Bidder shall defend, indemnify, and hold harmless ETI, each of its parents and other affiliates, and each of their respective officers, directors, employees, attorneys, agents, and successors and assigns, upon demand, from and against any and all demands, suits, penalties, obligations, damages, claims, losses, liabilities, payments, costs, and expenses, including reasonable legal, accounting, and other expenses in connection therewith and costs and expenses incurred in connection with investigations and settlement proceedings, which arise out of, are in connection with, or relate to (i) any breach or violation of any covenant, obligation, or agreement of Bidder set forth in this Agreement or (ii) any breach or inaccuracy of any of the representations or warranties of Bidder in this Agreement.

8. Waivers. Without limiting Section 14 below, no waiver by ETI of any provision of this Agreement shall be effective unless and to the extent set forth in a writing signed by an authorized representative of ETI and designated as a waiver. Any waiver at any time by ETI of its rights, duties, and/or obligations with respect to any default under this Agreement, or with respect to any other matter arising out of or in connection with this Agreement, shall not be deemed a continuing waiver, nor a waiver with respect to any prior or subsequent default or other matter and shall be limited to its express terms. Any delay in asserting or enforcing any rights under this Agreement shall not be deemed a waiver of such rights. A failure of ETI to enforce any provision of this Agreement or to require performance by Bidder of any of the provisions hereof shall not be construed to waive such provision, or to affect the validity of this Agreement or any part thereof, or the right of ETI thereafter to enforce each and every provision hereof.

9. Assignment; Successors and Assigns. This Agreement and all of the rights, benefits, powers, privileges, duties, or obligations hereunder may be assigned by ETI, without prior notice to Bidder or Bidder's consent, to any of its affiliates or to any party or parties that acquire an ownership interest in ETI, its assets, businesses, or any material part thereof, but none of this Agreement or any rights, benefits, powers, privileges, duties, or obligations hereunder may be assigned or otherwise transferred by Bidder without ETI's prior written consent, which may be granted or withheld in ETI's sole and absolute discretion. Any purported assignment or other transfer by Bidder in violation of the preceding sentence shall be void *ab initio* and of no effect. This Agreement shall be binding upon Bidder and the successors and permitted assigns of Bidder.

10. Governing Law; Jurisdiction and Venue; Waiver of Jury Trial. This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by and under the laws of the State of New York (without giving effect to principles of conflicts of laws) (other than Section 5-1401 of the New York General Obligations Law). Bidder hereby irrevocably consents to the non-exclusive personal jurisdiction and venue of any New York or United States Federal court of competent jurisdiction sitting in New York, New York, in any action, claim or proceeding arising out of or in connection with this Agreement.

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BIDDER HEREBY EXPRESSLY AND IRREVOCABLY WAIVES AND AGREES NOT TO ASSERT (I) THE DEFENSE OF LACK OF PERSONAL JURISDICTION, *FORUM NON CONVENIENS*, OR ANY SIMILAR DEFENSE WITH RESPECT TO THE MAINTENANCE OF ANY SUCH ACTION, CLAIM, OR PROCEEDING IN NEW YORK, NEW YORK, AND (II) THE RIGHT TO TRIAL BY JURY IN ANY SUCH ACTION OR PROCEEDING.

11. Liability for Bidder Representatives. Bidder shall ensure that each Bidder Representative is informed of the terms of this Agreement and that each such person adheres to this Agreement as it applies to Bidder as if such person were a party hereto. Bidder shall be responsible for any breach of this Agreement resulting from or arising out of the acts or omissions of any Bidder Representative.

12. Severability. All provisions of this Agreement are severable. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be (i) invalid or unenforceable only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any other provision hereof and (ii) revised or reformed, to the maximum extent permitted under applicable Law, in a manner resulting in rights, duties and obligations most closely representing the intention of Bidder and ETI as expressed herein.

13. Term. The term of this Agreement shall commence on the date hereof and shall continue in effect until the last to occur of (i) the completion of the RFP Process, (ii) the conclusion of any regulatory proceedings or litigation relating to the RFP Process, the Proposal, or this Agreement or (iii) six (6) years from the Effective Date.

14. Integration; Amendments; Delivery. This Agreement contains the entire agreement between ETI and Bidder with respect to the subject matter hereof and supersedes all prior understandings, agreements and writings between them with respect to the subject matter hereof, whether written or oral, save and except for any written agreement with respect to confidentiality obligations and Bidder Registration. This Agreement may not be altered, amended, modified or otherwise changed by any prior, contemporaneous, or subsequent agreements, understandings, discussions or course of dealings unless the same is reduced to a writing that specifically refers to this Agreement and is signed by authorized representatives of Bidder and ETI. The delivery of this Agreement by pdf or other electronic means, including through Power Advocate, in accordance with the requirements of the RFP shall be deemed to be valid delivery hereof. It shall be sufficient in making proof of this Agreement to produce or account for a pdf or other electronic copy of this Agreement delivered pursuant to the RFP.

15. Enforceability; Reliance. Bidder acknowledges and agrees that, notwithstanding anything to the contrary herein or elsewhere, Bidder intends for this Agreement to be, and this Agreement shall be, fully enforceable in all respects by ETI against Bidder, and ETI and ETI Representatives (as applicable) shall be considered the sole beneficiaries of this Agreement. Bidder hereby waives and disclaims any legal or equitable defense to any claim made by or on behalf of ETI or any ETI Representative in connection with this Agreement or the RFP deriving from or otherwise arising out of ETI or any ETI Representative not being a signatory to this Agreement. The obligations, waivers, disclaimers, and terms of Sections 2 through 13 herein are fundamental to this Agreement, and ETI's decisions to allow Bidder to continue to participate in

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the RFP and enter into this Agreement are made in express reliance on such obligations, waivers, and disclaimers.

IN WITNESS WHEREOF, Bidder has executed this Agreement as of the Effective Date and in the manner first written above. Please execute one Agreement for each proposal.

Bidder ID: _____

Resource ID: _____

Proposal ID: _____

Bidder Name: _____

By: _____

Name: _____

Title: _____