

**Maui
Electric**

REQUEST FOR PROPOSALS

FOR

VARIABLE RENEWABLE DISPATCHABLE GENERATION

PAIRED WITH ENERGY STORAGE

ISLAND OF MOLOKA‘I

NOVEMBER 27, 2019

Docket No. 2019-0178

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Chapter 1: Introduction and General Information

Maui Electric Company, Ltd. (“Maui Electric” or the “Company”) seeks proposals for the supply of qualified variable renewable dispatchable generation paired with energy storage for the Maui Electric System on the island of Moloka‘i in accordance with this Request for Proposals (“RFP”). The total amount of variable renewable dispatchable generation being solicited in this RFP is the capability to provide 8,500 megawatt hours (“MWh”) annually.

Affiliates of the Company may submit a Proposal in response to this RFP subject to the requirements of this RFP. The Company may submit a sealed Proposal in response to this RFP (“Sealed SBO Proposal”) subject to the requirements of this RFP.

The Company seeks variable renewable dispatchable photovoltaic (“PV”) or wind (100 kW per turbine or less) generation projects paired with energy storage systems in this RFP. The Company intends to contract for variable renewable dispatchable generation projects paired with energy storage systems through this RFP using its Model Renewable Dispatchable Generation Power Purchase Agreement (“RDG PPA”), which treats variable generation facilities as fully dispatchable. The Company has created a photovoltaic (“PV”) version (the “PV RDG PPA”) and a wind version of its RDG PPA attached as Appendix K and Appendix L respectively.¹

Each successful Proposer will provide variable renewable dispatchable generation paired with energy storage to the Company pursuant to the terms of an RDG PPA, which will be subject to review and approval by the State of Hawai‘i Public Utilities Commission (“PUC”).

The Company will evaluate Proposals using the evaluation and selection process described in Chapter 4. The Company will evaluate and select Proposals based on both price and non-price factors that impact the Company, its customers, and communities affected by the proposed Projects. The amount of generation and storage that the Company may acquire from this RFP depends on, among other things, the quality and cost-effectiveness of bids received in response to this RFP; economic comparison to other RFP responses; updates to the Company’s forecasts; distribution availability; and changes to regulatory or legal requirements. If attractive Proposals are received that will provide energy in excess of the targeted amounts, the Company will consider selecting such Proposal(s) if benefits to customers are demonstrated.

All requirements necessary to submit a Proposal(s) are stated in this RFP. A description of the technical requirements for Proposers is included in the body of this RFP, Appendix B, and in the RDG PPA attached as Appendix K and L.

All capitalized terms used in this RFP shall have the meaning set forth in the glossary of defined terms attached as Appendix A. Capitalized terms that are not included in Appendix A shall have the meaning ascribed in this RFP.

1.1 Authority and Purpose of the Request for Proposals

1.1.1 This RFP is issued in response to Order No. 36776 issued on November 15, 2019 in Docket No. 2019-0178 as part of a procurement process established by the PUC.

¹ The RDG PPAs for PV and Wind are available on the Company’s RFP website and through the PowerAdvocate platform for the RFP.

- 1.1.2 This RFP is subject to Decision and Order (“D&O”) No. 23121 in Docket No. 03-0372 (To Investigate Competitive Bidding for New Generating Capacity in Hawai‘i), which sets forth the PUC’s Framework for Competitive Bidding (“Framework” or “Competitive Bidding Framework”).
- 1.1.3 Proposers should review the Hawaiian Electric Companies’ Power Supply Improvement Plans, filed in Docket No. 2014-0183 on December 23, 2016 (“PSIP Update Report: December 2016” or “PSIP”). Consistent with the PSIP, the primary purpose of this RFP is to obtain variable renewable energy and energy storage so that the Company can continue to transform Moloka‘i’s power supply portfolio from fossil fuel-based generation to renewable-based generation to meet Hawai‘i’s 100% RPS requirement.
- 1.2 Scope of the RFP**
- 1.2.1 The Company will only accept Proposals that utilize PV or wind (100 kW per turbine or less) generation technologies, and all Proposals must be paired with energy storage.
- 1.2.2 Each Proposal submitted in response to this RFP must represent a Project that is capable of meeting the requirements of this RFP without having to rely on the completion or implementation of any other Project.
- 1.2.3 Proposals that will require system upgrades and the construction of which, in the reasonable judgment of the Company (in consultation with the Independent Observer), creates a significant risk that their Project’s Guaranteed Commercial Operations Date (“GCOD”) will not be met will not be considered in this RFP.
- 1.2.4 Projects submitted in response to this RFP must be located on the Island of Moloka‘i.
- 1.2.5 Proposers will determine their Project Site. Proposers have the option of submitting a Proposal using potential Sites offered and described in Section 3.11. Proposers must locate all Project infrastructure within areas of their Site that are outside the 3.2 feet sea level rise exposure area (SLR-XA) as described in the Hawai‘i Sea Level Rise Vulnerability and Adaptation Report (2017)² and are not located within a Tsunami Evacuation Zone.³
- 1.2.6 Projects must interconnect to the Company’s Electric System on the Island of Moloka‘i.
- 1.2.7 Projects must be greater than or equal to 0.5 MW (500 kW). No single point of failure from the Facility shall result in a decrease in net electrical output greater than 2.7 MW AC. Additionally, in meeting this requirement, the Facility must be segmented in equally

² Hawai‘i Climate Change Mitigation and Adaptation Commission. 2017. Hawai‘i Sea Level Rise Vulnerability and Adaptation Report. Prepared by Tetra Tech, Inc. and the State of Hawai‘i Department of Land and Natural Resources, Office of Conservation and Coastal Lands, under the State of Hawai‘i Department of Land and Natural Resources Contract No: 64064. This report is available at: https://climateadaptation.hawaii.gov/wp-content/uploads/2017/12/SLR-Report_Dec2017.pdf

³ See Hawai‘i Sea Level Rise Viewer at <https://www.pacioos.hawaii.edu/shoreline/slr-hawaii/>, and National Oceanic and Atmospheric Administration (NOAA) interactive map in partnership with the State of Hawai‘i at <https://tsunami.coast.noaa.gov/#/>.

sized capacities (MW). Each segment must have its own point of interconnection into the Moloka'i System that can be independently dispatched via the Company's energy management system. Revisions would need to be made to the RDG PPA to account for multiple points of interconnection.

1.2.8 Contracts for projects selected through this RFP shall use the RDG PPA, as described in Section 3.8. Under the RDG PPA, the Company will maintain exclusive rights to fully direct dispatch of the Facility, subject to the availability of the resource, and Section 1.2.10 below.

1.2.9 Proposals must be submitted with an energy storage component. The energy storage component can be charged during periods when full potential export of the generation Facility is not being dispatched by the Company, and the storage component can be used to provide energy to the Company during other times that are beneficial to the system. The energy storage component must be sized to support the Facility's Allowed Capacity (in MW) for a minimum of four (4) continuous hours throughout the term of the PPA.

For example, for a 5 MW facility, the energy storage component must be able to store and discharge at least 20 MWh of energy in a cycle throughout the term of the PPA.

1.2.10 The energy storage component must also be able to be charged from the grid at the direction of the Company as described in this section. During the period that allows the Project to maximize and capture the benefits of the Investment Tax Credit ("ITC") for the energy storage system, grid charging of the energy storage system is not required. After the 5-year ITC recapture period has lapsed, the energy storage component must be capable of being 100% charged from the grid at the direction of the Company.

Energy storage components that are incapable of claiming the ITC must be capable of being 100% charged from the grid from the GCOD.

1.2.11 The amount of energy discharged from the energy storage component in a year will be limited to the energy storage contract capacity (in MWh) multiplied by the number of Days in that year.

1.2.12 Proposals must specify a GCOD no later than December 31, 2023. Preference will be given to Proposals that specify an earlier GCOD during the non-price evaluation.

1.2.13 A Proposer's GCOD set forth in its Proposal will be the GCOD in any resulting PPA if such Proposal is selected to the Final Award Group. Proposers will not be able to request a change in the GCOD set forth in their Proposals.

1.2.14 If selected, Proposers will be responsible for all Project costs throughout the term of the PPA, including but not limited to Project development, completion of an Interconnection Requirements Study ("IRS"), the cost of conducting a greenhouse gas analysis, land acquisition, permitting, financing, construction of the Facility and all Interconnection Facilities, and operations and maintenance ("O&M").

- 1.2.15 If selected, Proposers will be solely responsible for the decommissioning of the Project and the restoration of the Site upon the expiration of the PPA, as described in Attachment G, Section 7 of the RDG PPA.
- 1.2.16 If selected, Proposers shall pursue all available applicable federal and state tax credits. Proposal pricing must be set to incorporate the benefit of such available federal tax credits. However, to mitigate the risk on Proposers due solely to potential changes to the state's tax credit law before a selected project reaches commercial operations, Proposal pricing shall be set without including any state tax credits. If a Proposal is selected, the PPA for the project will require the Proposer to pursue the maximum available state tax credit and remit tax credit proceeds to the Company for customers' benefit as described in Attachment J of the RDG PPA. The PPA will also provide that the Proposer will be responsible for payment of liquidated damages for failure to pursue the state tax credit.
- 1.2.17 Each Proposal submitted in response to this RFP must represent a Project that is capable of meeting the requirements of this RFP without having to rely on a proposed change in law, rule, or regulation.

1.3 **Competitive Bidding Framework**

Consistent with the Framework, this RFP outlines the Company's requirements in relation to the resources being solicited and the procedures for conducting the RFP process. It also includes information and instructions to prospective Proposers participating in and responding to this RFP.

1.4 **Role of the Independent Observer**

- 1.4.1 Part III.C.1 of the Framework sets forth the circumstances under which an Independent Observer is required in a competitive bidding process. The PUC has retained an Independent Observer both to advise and monitor the process for this RFP. All phases of the RFP process will be subject to the Independent Observer's oversight, and the Independent Observer will coordinate with PUC staff throughout the RFP process to ensure that the RFP is undertaken in a fair and unbiased manner. In particular, the Company will review and discuss with the Independent Observer decisions regarding the evaluation, disqualification, non-selection, and selection of Proposals.
- 1.4.2 The role of the Independent Observer, as described in the Framework, will include but is not limited to:
- Monitor all steps in the competitive bidding process
 - Monitor communications (and communications protocols) with Proposers
 - Monitor adherence to the Company's Code of Conduct
 - Submit comments and recommendations, if any, to the PUC concerning the RFP
 - Review the Company's Proposal evaluation methodology, models, criteria, and assumptions
 - Review the Company's evaluation of Proposals
 - Advise the Company on its decision-making
 - Participate in dispute resolution as set forth in Section 1.10

- Monitor contract negotiations with Proposers
- Report to the PUC on monitoring results during each stage of the competitive bidding process
- Provide an overall assessment of whether the goals of the RFP were achieved

1.4.3 The Independent Observer for this RFP is:

Navigant Consulting, Inc.
685 Third Avenue, 14th Floor
New York, NY 10017
Attn: Dia Dean Koujak

1.5 **Communications Between the Company and Proposers – Code of Conduct Procedures Manual**

1.5.1 Communications and other procedures under this RFP are governed by the “Code of Conduct Procedures Manual,” (also referred to as the “Procedures Manual”) developed by the Company as required by the Framework, and attached as Appendix C.

1.5.2 All pre-Proposal communication with prospective Proposers will be conducted via the Company’s RFP website, Electronic Procurement Platform, and/or electronic mail (“Email”) through the address specified in Section 1.6 (the “RFP Email Address”). Frequently asked questions submitted by prospective Proposers and the answers to those questions may be posted on the Company’s RFP website, or sent through either Email or the Electronic Procurement Platform to registered individuals. The Company reserves the right to respond only to comments and questions it deems are appropriate and relevant to the RFP. Proposers are advised to submit questions no later than fifteen Days before the Proposal Due Date (RFP Schedule in Section 3.1, Items 9 and 10). The Company will endeavor to respond to all questions no later than five Days before the Proposal Due Date.

1.5.3 After Proposals have been submitted, the Company may contact individual Proposers for purposes of clarifying their Proposal(s).

1.5.4 Any confidential information deemed by the Company, in its sole discretion, to be appropriate to share, will only be transmitted to the requesting party after receipt of a fully executed Mutual Confidentiality and Non-Disclosure Agreement (“NDA”). See Appendix E.

1.5.5 Except as expressly permitted and in the manner prescribed in the Procedures Manual, any unsolicited contact by a Proposer or prospective Proposer with personnel of the Company pertaining to this RFP is prohibited.

1.6 Company Contact for Proposals

The primary contact for this RFP is:

Joseph Streeter
Energy Contract Manager
Maui Electric Company, Ltd.
210 West Kamehameha Ave.
Kahului, Hawai'i 96732

RFP Email Address: molokaicompetitivebidding@mauielectric.com

1.7 Proposal Submission Requirements

- 1.7.1 All Proposals must be prepared and submitted in accordance with the procedures and format specified in the RFP. Proposers are required to respond to all questions and provide all information requested in the RFP, as applicable, and only via the communication methods specified in the RFP.
- 1.7.2 Detailed requirements regarding the form, submission, organization, and information for the Proposal are set forth in Chapter 3 and Appendix B.
- 1.7.3 In submitting a Proposal in response to this RFP, each Proposer certifies that the Proposal has been submitted in good faith and without fraud or collusion with any other unaffiliated person or entity. The Proposer shall acknowledge this in the Response Package submitted with its Proposal. Furthermore, in executing the NDA provided as Appendix E, the Proposer agrees on behalf of its Representatives (as defined in the NDA) that the Company's negotiating positions will not be shared with other Proposers or their respective Representatives.

In addition, in submitting a Proposal, a Proposer will be required to provide Company with its legal counsel's written certification in the form attached as Appendix B Attachment 1 certifying in relevant part that irrespective of any Proposer's direction, waiver, or request to the contrary, that the attorney will not share a Proposer's confidential information associated with such Proposer, including, but not limited to, information such as a Proposer's or Company's negotiating positions with third parties unaffiliated with Proposer (by contract or organizational structure), including other proposers responding to the RFP. If legal counsel represents multiple unaffiliated Proposers whose Proposals are selected for the Final Award Group, such counsel will also be required to submit a similar certification at the conclusion of power purchase agreement negotiations that he or she has not shared a Proposer's confidential information or the Company's confidential information associated with such Proposer, including but not limited to, a Proposer's or Company's negotiating positions, with third parties unaffiliated with such Proposer (by contract or organizational structure), including other Proposers responding to the RFP.

- 1.7.4 Proposals must be submitted by 2:00 pm Hawai‘i Standard Time (HST) on the Proposal Due Date shown in the RFP Schedule in Section 3.1. IPP and Affiliate proposals must be submitted via the Electronic Procurement Platform. No hard copies of these Proposals will be accepted by the Company.⁴ The Sealed SBO Proposal must be submitted in accordance with the instructions in Section 1.9.

It is the Proposer’s sole responsibility to ensure that complete and accurate information has been submitted on time and consistent with the instructions of this RFP. With this assurance, Company shall be entitled to rely upon the completeness and accuracy of every Proposal. Any errors identified by the Proposer or Company after the Proposal Due Date has passed may jeopardize further consideration and success of the Proposal. If an error or errors are later identified, Company, in consultation with the Independent Observer, may permit the error(s) to be corrected without further revision to the Proposal, or may require Proposer to adhere to terms of the Proposal as submitted without correction. Additionally, and in Company’s sole discretion, if such error(s) would materially affect the Priority List or Final Award Group, Company reserves the right, in consultation with the Independent Observer, to remove or disqualify a Proposal upon discovery of the material error(s). The Proposer of such Proposal shall bear the full responsibility for such error(s) and shall have no recourse against Company’s decision to address Proposal error(s), including removal or disqualification. The Energy Contract Manager, in consultation with the Independent Observer, will confirm that the Sealed SBO Proposal is either delivered or postmarked by, and that any Affiliate Proposals are timestamped by, milestone (9) Sealed SBO Proposal and Affiliate Proposal Due Date in Section 3.1 Table 1. The PowerAdvocate Platform automatically closes further submissions after milestone (10) IPP Proposal Due Date in Table 1.

1.8 Proposal Fee

- 1.8.1 IPP and Affiliate proposers are required to tender a non-refundable Proposal Fee of \$5,000 for each Proposal submitted.
- 1.8.2 Proposers may submit multiple Proposal variations for a Project. If such Proposals are on different Sites or for different generation technologies, a separate Proposal Fee must be paid for each Proposal. The method of submitting multiple Proposals within this RFP is described in Appendix B.
- 1.8.3 Proposers may also submit up to three (3) minor variations of their original Proposal. Variations of pricing terms or Facility size can be offered. All variations within a Proposal must be proposed on the same Site and using the same generation technology to avoid paying a separate Proposal Fee for each variation. Whether or not a separate Proposal Fee is required, all unique information for each variation of a Proposal, no matter how minor, must be clearly identified and separated by following the instructions in Appendix B Section 3.

⁴ Affiliate Proposals have additional submission requirements to the PUC specified in Section 1.9 below.

- 1.8.4 The Proposal Fee must be in the form of a cashier's check from a U.S.-chartered bank made payable to "Maui Electric Company, Ltd." and must be delivered and received by the Company by 2:00 pm (HST) on the Proposal Due Date shown in the RFP Schedule in Section 3.1. The check should include a reference to the Proposal(s) for which the Proposal Fee is being provided. Proposers are strongly encouraged to utilize a delivery service method that provides proof of delivery to validate delivery date and time.

If the Proposal Fee is delivered by U.S. Postal Service (with registered, certified, receipt verification), the Proposer shall address it to:

Joseph Streeter
Energy Contract Manager
Maui Electric Company, Limited
Mail Code KBY-IC
PO Box 398
Kahului, Hawai'i 96733

If the Proposal Fee is delivered in person, or via an alternative registered, certified delivery service, the Proposer shall use the address specified in Section 1.6.

1.9 **Procedures for the Self-Build or Affiliate Proposals**

- 1.9.1 The Competitive Bidding Framework allows the Company the option to offer a Proposal in response to this RFP ("Self-Build Option" or "SBO"). Accordingly, the Company must follow certain requirements and procedures designed to safeguard against and address concerns associated with: (1) preferential treatment of the SBO or members, agents, or consultants of the Company formulating the SBO (the "Self-Build Team"); and (2) preferential access to proprietary information of the Self-Build Team. These requirements are specified in the Code of Conduct required under the Framework and implemented by certain rules and procedures found in the Procedures Manual submitted to the PUC in Docket No. 2017-0352 on July 10, 2019. A copy of the Procedures Manual is attached as Appendix C.

The Competitive Bidding Framework also allows Affiliates of the Company to submit Proposals to RFPs issued by the Company. All Sealed SBO Proposals and Affiliate Proposals are subject to the Company's Code of Conduct and the Procedures Manual. Affiliate Proposals are also subject to any applicable Affiliate Transaction Requirements issued by the PUC in Decision and Order No. 35962 on December 19, 2018, and subsequently modified by Order No. 36112, issued on January 24, 2019, in Docket No. 2018-0065. Affiliate Proposals will be treated identically to an IPP Proposal, except that they are due at the same time as the Sealed SBO Proposal.

The Independent Observer will monitor adherence to the Company's Code of Conduct and the Procedures Manual.

- 1.9.2 Pursuant to the Framework and as set forth in the RFP Schedule, the Company will require that Affiliate Proposals be submitted electronically through the Electronic

Procurement Platform and filed with the PUC in hard copy a minimum of one (1) Day before IPP Proposals are due. Affiliate Proposals will be uploaded into the Electronic Procurement Platform in the same manner IPP Proposals from other Proposers are uploaded. The Energy Contract Manager, in consultation with the Independent Observer, will confirm that the Affiliate Proposals are timestamped by Milestone (10) Sealed SBO Proposal and Affiliate Proposal Due Date in RFP Table 1.

- 1.9.3 This RFP will permit only one (1) Proposal from the Self-Build Team, which will be submitted under seal and evaluated only upon certain conditions identified in Chapter 4. This Sealed SBO Proposal will be not be submitted through the Electronic Procurement Platform, but rather must be submitted to the Company in hard copy to the contact and address identified in Section 1.8.4. A hard copy of the Sealed SBO Proposal must also be filed confidentially with the PUC and submitted to the Independent Observer to the contact and address identified in Section 1.4.3. Pursuant to the Framework and as set forth in the RFP Schedule, these hard copies must be delivered or postmarked by the date and time identified in Milestone (10) Sealed SBO Proposal and Affiliate Proposal Due Date in RFP Table 1.

Detailed requirements for a Sealed SBO Proposal can be found in Appendix G. These requirements are intended to provide a level playing field between the Sealed SBO Proposal and third-party Proposals. Except where specifically noted, the Sealed SBO Proposal must adhere to the same price and non-price Proposal requirements as required of all Proposers, as well as certain PPA requirements, such as milestones and liquidated damages, as described in Appendix G. In addition to its Sealed SBO Proposal, the Self-Build Team will be required to submit Appendix G Attachment 1, Self-Build Option Team Certification Form, acknowledging it has followed the rules and requirements of the RFP to the best of its ability and has not engaged in any collusive actions or received any preferential treatment or information providing an impermissible competitive advantage to the Self-Build Team over other proposers responding to this RFP, as well as adherence to PPA terms and milestones required of all proposers and the SBO's proposed cost protection measures.

The cost recovery methods between a regulated utility Sealed SBO Proposal and IPP Proposals are fundamentally different due to the business environments they operate in. As a result, the Company has instituted a process to compare the two types of proposals for the initial evaluation of the price related criteria on a 'like' basis through comparative analysis.

At the core of a Sealed SBO Proposal are its total project capital cost and any associated annual operations and maintenance ("O&M") costs. If the Sealed SBO Proposal is evaluated, its capital costs⁵ and O&M costs will be used in a revenue requirement calculation to determine the estimated revenues needed from ratepayers which would allow the Company to recover the total cost of the project. The SBO revenue

⁵ The Sealed SBO Proposal will be required to provide a table identifying project costs by year. These capital costs should be all inclusive, including but not limited to costs associated with equipment, Engineering, Procurement, and Construction (EPC), interconnection, overhead, and Allowance for Funds Used During Construction (AFUDC).

requirements are then used in a levelized price calculation to determine a Levelized Energy Price (“LEP”) (\$/MWh).

The Company, in conjunction with the Independent Observer, may also conduct a risk assessment of the Sealed SBO Proposal to ensure an appropriate level of customer cost protection measures are included in such Proposal.

The SBO will be permitted to submit a shared savings mechanism with its Proposal to share in any cost savings between the amount of cost bid in the Sealed SBO Proposal and the actual cost to construct the Project. If the Sealed SBO Proposal is selected to the Final Award Group, the proposed shared savings mechanism will need to be approved by the PUC. Submission of a shared savings mechanism is not required and will not be considered in the evaluation of the Sealed SBO Proposal.

1.10 **Dispute Resolution Process**

- 1.10.1 If disputes arise under the RFP, the provisions of Section 1.10 and the dispute resolution process established in the Framework will control. See Part V of the Framework.
- 1.10.2 Proposers who challenge or contest any aspect of the RFP process must first attempt to resolve their concerns with the Company and the Independent Observer (“Initial Meeting”). The Independent Observer will seek to work cooperatively with the parties to resolve any disputes or pending issues and may offer to mediate the Initial Meeting to resolve disputes prior to such issues being presented to the PUC.
- 1.10.3 Any and all disputes arising out of or relating to the RFP which remain unresolved for a period of twenty (20) Days after the Initial Meeting takes place may, upon the agreement of the Proposer and the Company, be submitted to confidential mediation in Honolulu, Hawai‘i, pursuant to and in accordance with the Mediation Rules, Procedures, and Protocols of Dispute Prevention Resolution, Inc. (“DPR”) (or its successor) or, in its absence, the American Arbitration Association then in effect (“Mediation”). The Mediation will be administered by DPR. If the parties agree to submit the dispute to Mediation, the Proposer and the Company shall each pay fifty percent (50%) of the cost of the Mediation (i.e., the fees and expenses charged by the mediator and DPR) and shall otherwise each bear their own Mediation costs and attorneys’ fees.
- 1.10.4 If settlement of the dispute is not reached within sixty (60) Days after commencement of the Mediation, or if after the Initial Meeting, the parties do not agree to submit any unresolved disputes to Mediation, then as provided in the Framework, the Proposer may submit the dispute to the PUC in accordance with the Framework.
- 1.10.5 In accordance with the Framework, the PUC will serve as the arbiter of last resort for any disputes relating to this RFP involving Proposers. The PUC will use an informal expedited dispute resolution process to resolve the dispute within thirty (30) Days, as

described in Parts III.B.8 and V of the Framework.⁶ There will be no right to hearing or appeal from this informal expedited dispute resolution process.

1.10.6 If any Proposer initiates a dispute resolution process for any dispute or claim arising under or relating to this RFP, other than that permitted by the Framework and Section 1.10 (e.g., a court proceeding), then such Proposer shall be responsible for any and all attorneys' fees and costs that may be incurred by the Company or the PUC in order to resolve such claim.

1.11 **No Protest or Appeal**

Subject to Section 1.10, no Proposer or other person will have the right to protest or appeal any award of a Project made by the Company.

By submitting a Proposal in response to the RFP, the Proposer expressly agrees to the terms and conditions set forth in this RFP.

1.12 **Modification or Cancellation of the Solicitation Process**

1.12.1 Unless otherwise expressly prohibited, the Company may, at any time up to the final execution of an RDG PPA, as may be applicable, in consultation with the Independent Observer, postpone, withdraw, and/or cancel any requirement, term, or condition of this RFP, including deferral of the award or negotiation of any contract, and/or cancellation of the award all together, all of which will be without any liability to the Company.

1.12.2 The Company may modify this RFP subject to requirements of the Framework, whereby the modified RFP will be reviewed by the Independent Observer and submitted to the PUC thirty (30) Days prior to its issuance, unless the PUC directs otherwise. See Framework Part IV.B.10. The Company will follow the same procedure with regard to any potential postponement, withdrawal, or cancellation of the RFP or any portion thereof.

1.13 **Community Outreach**

The Company held a community meeting on Moloka'i to explain the RFP process and the Company's intent to procure a variable renewable dispatchable generation with energy storage project on the island of Moloka'i. At the community meeting, the Company solicited feedback from the community of Moloka'i regarding the RFP process and planned procurement. The Company has provided the comments received at the meeting

⁶ The informal expedited dispute resolution process does not apply to PUC review of contracts that result from the RFP. See Decision and Order No. 23121 at 34-35. Further, the informal expedited dispute resolution process does not apply to the Framework's process relating to issuance of a draft and final RFP, and/or to the PUC approval of the RFP because: (1) the Framework (and the RFP) set forth specific processes whereby interested parties may provide input through the submission of comments; and (2) the Framework's dispute resolution process applies to "Bidders" and there are no "Bidders" at this stage in the RFP process.

in Appendix J. Proposers are encouraged to review such comments and take such comments into account when developing Proposals in response to this RFP.

Chapter 2: Resource Needs and Requirements

2.1 Performance Standards

Proposals must meet the attributes set forth in this RFP and the requirements of the RDG PPA. This RFP and the RDG PPA set forth the minimum requirements that all Proposals must satisfy to be eligible for consideration in this RFP. Additional Performance Standards may be required based on the results of the IRS.

Facilities must be able to operate in grid-forming mode as directed by the Company as defined in the RDG PPA.

Black start capability is preferred. Proposals will need to identify⁷ any incremental costs to enable their facility to be black start capable, if not already enabled.

The functionality and characteristics of the storage must be maintained throughout the term of the PPA. To be clear, Proposers may not propose any degradation in storage capacity or storage efficiency in their Proposals.

2.2 Distribution System Information

2.2.1 Company information regarding an initial assessment of potential MW capacity of the Moloka'i System (including interconnection at the Pala'au Generating Station) providing possible points of interconnection has been developed for Sites included in the Land Request for Information ("Land RFI") as described in Section 3.11 and will be made available to Proposers only after execution of a NDA.⁸ Proposers should perform their own evaluation of project locations, and the Company does not guarantee any project output or ability to connect based on such information. Prior to submitting a proposal, Proposers are encouraged to inquire about the viability of interconnecting a proposed Project at a specific location. Please direct questions to the RFP Email Address in Section 1.6.

2.2.2 A detailed IRS, when performed, may reveal other adverse system impacts that may further limit a Project's ability to interconnect and/or further limit the net output of the Facility without upgrades.

2.3 Interconnection to the Company System

2.3.1 The Interconnection Facilities include both: (1) Seller-Owned Interconnection Facilities; and (2) Company-Owned Interconnection Facilities.

⁷ If black start is not already enabled for the Proposal, any additional costs necessary to enable black start will be identified in the submission instructions defined in Appendix B.

⁸ Appendix E contains the Mutual Confidentiality and Non-Disclosure Agreement for this RFP.

2.3.2 All Proposals must include a description of the Proposer's plan to transmit power from the Facility to the Company System. The proposed Interconnection Facilities must be compatible with the Company System. In the design, Projects must adequately consider Company requirements to address impacts on the performance and reliability of the Company System.

2.3.2.1 In addition to the Performance Standards and findings of the IRS, the design of the Interconnection Facilities, including power rating, Point(s) of Interconnection with the Company System, and scheme of interconnection, must meet Company standards. The Company will provide its construction standards and procedures to the Proposer (Engineer, Procure, Construct Specifications for Hawaiian Electric Power Lines and Substations) if requested via the RFP Email Address in Section 1.6 and upon the execution of a NDA as specified in Section 3.12.1. These specifications are intended to illustrate the scope of work typically required to administer and perform the design and construction of a Maui Electric substation and power line.

2.3.2.2 Interconnection Facilities must be designed such that, with the addition of the Facility, the Company System can meet all relevant Distribution Planning Criteria⁹ and any amendments thereto.

2.3.3 Tariff Rule No. 19, a copy of which is attached as Appendix I, establishes provisions for Interconnection and Transmission Upgrades. While the Moloka'i System does not have a traditional Transmission System, the tariff provisions are intended to simplify the rules regarding who pays for, installs, owns, and operates interconnection facilities in the context of competitive bidding. Proposers will be required to build the Company-Owned Interconnection Facilities, including any potential line extensions, except for any work in the Company's existing energized facilities and the final tap. Construction of Company-Owned Interconnection Facilities by the Proposer must comply with industry standards, laws, rules, and licensing requirements, as well as the Company's specific construction standards and procedures that the Company will provide upon request. (See Section 2.3.1.) Attachment A of Appendix I is provided to illustrate certain defined terms in Appendix I and does not represent the Company's design requirements. The design of all Interconnection Facilities will be subject to the requirements outlined in Section 2.3.2.1.

2.3.4 The Proposer shall be responsible for all costs required to interconnect a Project to the Company System, including all Seller-Owned Interconnection Facilities and Company-Owned Interconnection Facilities.

2.3.5 Proposers are required to include in their pricing proposal all costs for interconnection and distribution equipment expected to be required between their Facility and their proposed Point of Interconnection. Appendix H includes information related to Company-Owned Interconnection Facilities and costs that may be helpful to Proposers.

Selected Proposers shall be responsible for the actual final costs of all Seller-Owned Interconnection Facilities and Company-Owned Interconnection Facilities, whether or

⁹ MECO – Criteria for Distribution Substation and Feeder Planning.

not such costs exceed the costs set forth in a Proposer's Proposal. No adjustments will be allowed to the proposed price in a Proposal if actual costs for Interconnection Facilities exceed the amounts proposed.

- 2.3.6 Proposers are required to include in their pricing proposal all costs for distribution-level service interconnection for station power.
- 2.3.7 All Projects will be screened for general readiness to comply with the requirements for interconnection. Proposals selected to the Final Award Group will be subject to further study in the form of an IRS. The IRS process is further described in Section 5.1. The results of the completed IRS, as well as any mitigation measures identified, will be incorporated into the terms and conditions of a final executed PPA.

Chapter 3: Instructions to Proposers

3.1 Schedule for the Proposal Process

Table 1 sets forth the schedule for the proposal process (the "RFP Schedule"). The Company reserves the right to revise the RFP Schedule as necessary. Changes to the RFP Schedule prior to the RFP Proposal Due Date will be posted to the RFP website. Changes to the RFP Schedule after the Proposal Due Date will be communicated via Email or via the Electronic Procurement Platform to the Proposers.

**Table 1
Proposed RFP Schedule**

| Milestone | Schedule Dates |
|--|---|
| (1) Draft RFP is filed | August 6, 2019 |
| (2) PUC Opened Docket No. 2019-0178 | August 29, 2019 |
| (3) PUC Status Conference | September 5, 2019 |
| (4) Consumer Advocate and Company Comments Filed | October 7, 2019 |
| (5) Commission’s Order Approving Draft RFP, with Modifications | November 15, 2019 |
| (6) Company’s submission of Final RFP | November 27, 2019 |
| (7) Final RFP is Issued and Opened in Power Advocate | December 2, 2019 |
| (8) Proposer’s Conference Webinar (posted to Company website) | December 9, 2019 |
| (9) Sealed SBO Proposal and Affiliate Proposal Due Date | January 30, 2020 at 2:00 pm HST ¹⁰ |
| (10) IPP Proposal Due Date | January 31, 2020 at 2:00 pm HST |
| (11) Selection of Priority List | March 31, 2020 |
| (12) BAFOs Due | April 7, 2020 |
| (13) Selection of Final Award Group | July 14, 2020 |
| (14) Contract Negotiations Start | July 22, 2020 |

3.2 Company RFP Website/Electronic Procurement Platform

3.2.1 The Company has established a website for general information to share with potential Proposers. The RFP website is located at the following link:

www.mauielectric.com/molokaicompetitivebidding

The Company will provide general notices, updates, schedules, and other information on the RFP website throughout the process. Proposers should check the website frequently to stay abreast of any new developments. This website will also contain the link to the Electronic Procurement Platform employed by the Company for the receipt of Proposals.

“Sourcing Intelligence” developed by Power Advocate is the Electronic Procurement Platform that the Company has licensed and will utilize for this RFP. Proposers who do not already have an existing account with PowerAdvocate and who intend to submit a Proposal for this RFP will need to register as a “Supplier” with PowerAdvocate.

¹⁰ An SBO or Affiliate Proposal must also be filed in hard copy form with the PUC a minimum of one (1) Day before other Proposals are due.

- 3.2.2 There are no license fees, costs, or usage fees to Proposers for the use of the Electronic Procurement Platform.

See [Appendix D](#) for user information on and screenshots of PowerAdvocate's Sourcing Intelligence procurement platform.

3.3 **Status Conference**

The Commission held a status conference on September 5, 2019 to allow the Companies to propose plans for the draft Lāna‘i and Moloka‘i RFPs and to respond to questions from the Commission, the Consumer Advocate and stakeholders. The Companies' presentation was made available on the Companies' RFP Website. The Commission also solicited comments from stakeholders on the Companies' Draft Lāna‘i and Moloka‘i RFPs on September 6, 2019 before releasing its Order No. 36776 approving the draft RFPs for with modifications on November 15, 2019.

Following issuance of the RFP, the Company will also post a prerecorded webinar ("Proposer's Conference Webinar") for prospective Proposers to learn about the provisions and requirements of the Company's final RFP. A link to the webinar will be posted on the Companies' website.

Prospective Proposers may continue submitting written questions regarding the RFP to the RFP Email Address set forth in [Section 1.6](#). The Company will endeavor to address all questions that will be helpful to prospective Proposers via a Q&A section on the RFP website.

Prospective Proposers should review the RFP Website's Q&A section prior to submission of their Proposal. Duplicate questions will not be answered.

3.4 **Preparation of Proposals**

- 3.4.1 Each Proposer shall be solely responsible for reviewing the RFP (including all attachments and links) and for thoroughly investigating and informing itself with respect to all matters pertinent to this RFP, the Proposer's Proposal, and the Proposer's anticipated performance under the RDG PPA. It is the Proposer's responsibility to ensure it understands all requirements of the RFP, to seek clarification if the RFP's requirements or Company's request is not clear, and to ask for any confirmation of receipt of submission of information. Under [Section 1.7.4](#), the Proposer is solely responsible for all errors in its Proposal(s). The Company will not accept any explanation by a Proposer that it was incumbent on the Company to catch any error.
- 3.4.2 Proposers shall rely only on official information provided by the Company in this RFP when preparing their Proposal. The Company will rely only on the information included in the Proposals and additional information solicited by the Company to Proposers in the format requested, to evaluate the Proposals received. Evaluation will be based on the stated information in this RFP and on information submitted by Proposers in response to this RFP. Proposal submissions should not reference previous RFP submissions for

support. Proposers also should not assume that any previous RFP decisions/preferences will also pertain to this RFP.

3.4.3 Each Proposer shall be solely responsible for, and shall bear all of its costs incurred in the preparation of its Proposal and/or its participation in this RFP, including, but not limited to, all costs incurred with respect to the following: (1) review of the RFP documents; (2) meetings with the Company; (3) Site visits; (4) third-party consultant consultation; and (5) investigation and research relating to its Proposal and this RFP. The Company will not reimburse any Proposer for any such costs, including the selected Proposer(s).

3.4.4 Each Proposal must contain the full name and business address of the Proposer and must be signed by an authorized officer or agent¹¹ of the Proposer.

3.5 **Organization of the Proposal**

The Proposal must be organized as specified in Appendix B. It is the Proposer's responsibility to ensure the information requested in this RFP is submitted and contained within the defined Proposal sections as specified in Appendix B.

3.6 **Proposal Limitations**

Proposers expressly acknowledge that Proposals are submitted subject to the following limitations:

The RFP does not commit or require the Company to award a contract, pay any costs incurred by a Proposer in the preparation of a Proposal, or procure or contract for products or services of any kind whatsoever. The Company reserves the right, in consultation with the Independent Observer, to accept or reject, in whole or in part, any or all Proposals submitted in response to this RFP, to negotiate with any or all Proposers eligible to be selected for award, or to withdraw or modify this RFP in whole or in part at any time.

- The Company reserves the right, in consultation with the Independent Observer, to request additional information from any or all Proposers relating to their Proposals or to request that Proposers clarify the contents of their Proposals. Proposers who are not responsive to such information requests may be eliminated from further consideration upon consultation with the Independent Observer.
- The Company reserves the right, in consultation with the Independent Observer, to solicit additional Proposals from Proposers after reviewing the initial Proposals. Other than as provided in this RFP, no Proposer will be allowed to alter its Proposal or add new information to a Proposal after the Proposal Due Date.

¹¹ Proposer's officer or agent must be authorized to sign the Proposal. Such authorization must be in writing and may be granted via Proposer's organizational documents (i.e., Articles of Incorporation, Articles of Organization, By-laws, etc.), resolution, or similar documentation.

- All material submitted in response to this RFP will become the sole property of the Company, subject to the terms of the NDA.

3.7 **Proposal Compliance and Bases for Disqualification**

Proposers may be deemed non-responsive and/or Proposals may not be considered for reasons including, but not limited to, the following:

- Any unsolicited contact by a Proposer or prospective Proposer with personnel of the Company pertaining to this RFP as described in Section 1.5.5.
- Any illegal or undue attempts by or on behalf of the Proposer or others to influence the Proposal Review process.
- The Proposal does not meet one or more of the Eligibility Requirements specified in Section 4.2.
- The Proposal does not meet one or more of the Threshold Requirements specified in Section 4.3.
- The Proposal is deemed to be unacceptable through a fatal flaws analysis as described in Section 4.4.2.
- The Proposer does not respond to a Company request for additional information to clarify the contents of its Proposal within the timelines specified by the Company.
- The Proposal contains misrepresentations or errors.

3.8 **Power Purchase Agreement**

- 3.8.1 The Power Purchase Agreement for proposals selected under this RFP will be in the form of the RDG PPA, attached as Appendix K and Appendix L.
- 3.8.2 If selected, any Affiliate Proposers will be required to enter into the RDG PPA with the Company.
- 3.8.3 If selected, a Self-Build Proposer will not be required to enter into a PPA with the Company. However, the Sealed SBO Proposal will be held to the same performance metrics and milestones set forth in the RDG PPA to the same extent as all Proposers, as attested to in the Appendix G, Attachment 1, Self-Build Option Certification submittal. If liquidated damages are assessed, they will be paid from shareholder funds and returned to customers through the Purchased Power Adjustment Clause (“PPAC”) or other appropriate rate adjustment mechanisms.

To retain the benefits of operational flexibility for a Company-owned facility, the Sealed SBO Proposal will be permitted to adjust operational requirements and performance

metrics with the approval of the PUC. The process for adjustment would be similar to a negotiated amendment to a PPA with PUC approval.

- 3.8.4 In general, under the RDG PPA, payment to the Seller contains two parts: a Lump Sum Payment component to cover the fixed costs of the Project and a Price for Purchase of Electric Energy component (\$/MWh component) to cover variable operations and maintenance costs (if applicable, depending on the resource). In return, the Seller shall guarantee minimum performance and availability metrics to ensure that the Facility is maintained and available for energy storage and dispatch, as well as provide an indication of the available energy in near real-time for the Company's dispatch. Company shall not be obligated to accept, nor shall it be required to pay for, test energy generated by the Facility during acceptance testing or other test conditions.
- 3.8.5 As described in Section 2.1, the Performance Standards identified in the applicable RDG PPA establish the minimum requirements a Proposal must satisfy to be eligible for consideration in this RFP. A proposed Facility's ability to meet these Performance Standards is both a Threshold Requirement and a Non-Price Related Criteria under Sections 4.3 and 4.4.2, respectively. As such, the Performance Standards included in the RDG PPAs are non-negotiable. Proposers may propose modifications to other sections of the RDG PPA but are encouraged to accept such terms as written in order to expedite the overall RFP process and potential contract negotiations. As a component of their Proposals, Proposers who elect to propose modifications shall provide a Microsoft Word red-line version of the relevant document identifying specific proposed modifications to the model language that the Proposer is agreeable to, as well as a detailed explanation and supporting rationale for each modification.
- 3.8.5.1 General comments, drafting notes, and footnotes such as "parties to discuss" are unacceptable and will be considered non-responsive. Proposed modifications to the RDG PPA will be evaluated as a non-price evaluation criterion as further described in Section 4.4.2. In order to facilitate this process, the Company will make available electronic versions of the model agreements on the RFP website and through the PowerAdvocate platform for the RFP. Any proposed modifications to the RDG PPA will be subject to negotiation between the Company and the Final Award Group. As stated above, since general comments, drafting notes, and footnotes without accompanying specific proposed language modifications are unacceptable and non-responsive, the Company will not negotiate provisions simply marked by such general comments, drafting notes, and footnotes.
- 3.8.5.2 The Company has an interest in maintaining consistency for certain provisions of the RDG PPA, such as the calculation of availability and payment terms. Therefore, for such provisions, the Company will endeavor to negotiate similar and consistent language across PPAs for the Final Award Group.
- 3.8.6 Proposals that do not include specific proposed modifications to the attached RDG PPAs will be deemed to have accepted the RDG PPA in its entirety.

3.9 Pricing Requirements

- 3.9.1 Proposers must submit pricing for each of their variations associated with each Proposal (if variations as described in Section 1.8.2 and 1.8.3 are submitted). Proposers are responsible for understanding the terms of the RDG PPA. Pricing cannot be specified as contingent upon other factors (e.g., changes to federal tax policy or receiving all Investment Tax Credits assumed).
- 3.9.2 Escalation in pricing over the term of the RDG PPA is prohibited.
- 3.9.3 Pricing information must only be identified within specified sections of the Proposal instructed by this RFP's Appendix B Proposer's Response Package (i.e., Proposal pricing information must be contained within defined Proposal sections of the Proposal submission). Pricing information contained anywhere else in a Proposal will not be considered during the evaluation process.
- 3.9.4 The Proposer's Response Package must include the following prices for each Proposal (and variation):

For IPP or Affiliate proposals:

- **Lump Sum Payment (\$/year):** Payment amount for full dispatchability of the Facility. Payment will be made in monthly increments.
- **Price for Purchase of Electric Energy (\$/MWh):** Payment for delivery of net energy sourced from the variable generation resource, if applicable. No Energy Payment will be provided for any energy delivery that is sourced originally from the grid (Company's System).
- **Black Start (\$):** If the Facility is not already black start enabled, the incremental cost required to enable black start.

For the Sealed SBO Proposal:

- **Total Project Capital Costs (\$/year):** Total capital costs for the project (identified by year).
- **Annual O&M Costs (\$/year):** Initial year operations and maintenance costs, annual escalation rate.
- **Annual Revenue Requirement (\$/year):** Annual revenue requirements (ARR) calculated for each year.
- **Black Start (\$):** If the Facility is not already black start enabled, the incremental cost required to enable black start.

Additional description and detail on the Total Project Capital Costs, Annual O&M Costs, and Annual Revenue Requirement for the Sealed SBO Proposal is located in Appendix G.

- 3.9.5 As identified in the Schedule of Defined Terms in the PPA under “BESS Allocated Portion of the Lump Sum Payment”, the allocated portion of the Lump Sum Payment specified for energy storage for the Facility is 50% and shall be a non-negotiable percentage in the PPA.

3.10 **Project Description**

- 3.10.1 Proposals are required to provide a NEP RFP Projection for the Project. The NEP RFP Projection associated with the proposed Project represents the estimated annual net energy (in MWh) that could be produced by the Facility and delivered to the Point of Interconnection over a ten-year period with a probability of exceedance of 95%. The proposed Project’s energy storage component should not be factored into the NEP RFP Projection. Any losses that may be incurred from energy being stored and then discharged from the energy storage component or any energy that may be diverted to the energy storage component due to generation in excess of the Facility’s Allowed Capacity should not be factored into the NEP RFP Projection. The NEP RFP Projection should assume that all energy is being directly exported to the Moloka‘i System. The NEP RFP Projection will be used in the RFP evaluation process and therefore Proposers will be held to their provided value.¹²
- 3.10.2 Proposers must provide all information pertaining to the design, development, and construction of the Interconnection Facilities as specified in Appendix B.
- 3.10.3 Each Proposer must also agree to provide Project financial information, including proposed Project finance structure information specified in Appendix B. Such information will be used to evaluate Threshold Requirements and non-price criteria (e.g., Financial Viability of Proposer, Financial Strength and Financing Plan, State of Project Development and Schedule) set forth in Sections 4.3 and 4.4.2. Upon selection, the Final Award Group may be requested to provide further detailed cost information if requested by the PUC or the Consumer Advocate as part of the PPA approval process. If requested, such information would be provided to the PUC, Consumer Advocate, and Company pursuant to a protective order in the docket.
- 3.10.4 The Proposer agrees that no material changes or additions to the Facility from what is submitted in its Proposal will be made without the Proposer first having obtained prior written consent from the Company. Evaluation of all Proposals in this RFP is based on

¹² If a Proposal is selected to the Final Award Group and a PPA is executed between the Company and the Proposer, the NEP RFP Projection will be further evaluated at several steps throughout the process as set forth in the RDG PPA, and adjustments to the Lump Sum Payment will be made accordingly. Additionally, because the Company will rely on an accurate representation of the NEP RFP Projection in the RFP evaluation, a one-time liquidated damage as described in the RDG PPA will be assessed if the First NEP benchmark is less than the Proposer’s NEP RFP Projection. After the Facility has achieved commercial operations, the performance of the Facility will be assessed on a continuing basis against key metrics identified in the RDG PPA. See Article 2 and Attachment U of the RDG PPA.

the information submitted in each Proposal at the Proposal Due Date. If any Proposer requests any Proposal information to be changed after that date, the Company, in consultation with the Independent Observer, and in consideration of whether the evaluation is affected, will determine whether the change is permitted.

3.11 Sites Identified by the Company

- 3.11.1 As an alternative to a Site identified by the Proposer, the Company has identified potential Sites where landowners have expressed a willingness to negotiate a lease or purchase of the land to support a renewable energy project. These Sites were identified through a Land RFI. Proposers will be responsible for working directly with the land owner and must secure Site Control with such land owner prior to submitting a Proposal. Land RFI information is available to interested parties who sign an NDA. The Land RFI is further described in Appendix F.

Proposers are not required to select a Site identified in the Land RFI and as noted above may propose any Site for a Project. A Proposer may ask the Company questions as set forth in Section 2.2.1 if it would like to obtain similar information about the viability of interconnection at its proposed Site as identified for the Land RFI parcels.

- 3.11.2 Additionally, a Company-owned Site is being offered to Proposers for their consideration. An approximately 17-acre area within the Pala‘au Generating Station property west of Kaunakakai town, referred to as the Pala‘au Site, is further described in Appendix F.

Proposers proposing to use the Pala‘au Site shall be required to agree to specific terms and conditions for such use as provided for in an Attachment Z (Company-Owned Sites) of the RDG PPA. Provisions providing for access to the site during construction and thereafter, during commercial operations, will be subject to current Company security policies and procedures. Physical, communication, and internet security will be required consistent with Company policy. Additional measures may be required to limit or eliminate interference between Seller and Company facilities and infrastructure. Such policies, procedures, and requirements may change as necessary during the term of the PPA to reflect changes in Company policies or to remain in compliance with current applicable laws, rules, or regulations. Limited sections of Attachment Z (Company-Owned Sites) (Section 4 Seller's Investigations of the Company-Owned Site, Section 5 Construction and Maintenance, Section 7 Hazardous Substances, and Section 8 Archeological and Historic Items) shall be negotiable.

The Company has contracted with Fewell Geotechnical Engineering, Ltd and Cultural Services Hawai‘i to perform preliminary investigations at the Pala‘au Site and is willing to share the geotechnical and the archaeological field investigation reports (“Information”) with interested Proposers. The Information will be available no later than December 6, 2019. Requests for copies of these reports must be sent to the RFP email address, and the reports will be made available to Proposers only after a Proposer’s

submission of an executed NDA. More information regarding these reports and the Pala‘au Site can be found in Appendix F of this RFP.

The Company is offering potential Proposers the opportunity to visit the Pala‘au Site on December 18, 2019. Additional details and requirements for this site visit will be posted to the Company’s RFP website.

3.12 Confidentiality

- 3.12.1 Each prospective Proposer must submit an executed NDA (specific to the Moloka‘i Variable Renewable Dispatchable Generation Paired With Energy Storage RFP) in the form attached as Appendix E by the Proposal Due Date specified in the RFP Schedule in Section 3.1. The form of the NDA is not negotiable. Information designated as confidential by the Company will be provided on a limited basis, and only those prospective Proposers who have submitted an executed NDA will be considered. Proposers must clearly identify all confidential information in their Proposals. However, Proposers should designate as confidential only those portions of their Proposals that genuinely warrant confidential treatment. The Company discourages the practice of marking every page of a Proposal as confidential. The Company will make reasonable efforts to protect any such information that is clearly marked as confidential. Consistent with the terms of the NDA, the Company reserves the right to share any information, even if marked confidential, with its agents, contractors, or the Independent Observer for the purpose of evaluating the Proposal and facilitating potential contract negotiations.
- 3.12.2 Proposers, in submitting any Proposal(s) to Company in response to this RFP, certify that such Proposer has not shared its Proposal(s), or any part thereof, with any other Proposer of a Proposal(s) responsive to this RFP.
- 3.12.3 The Company will request that the PUC issue a Protective Order to protect confidential information provided by Proposers to the Company and to be filed in a proceeding before the PUC. A copy of the Protective Order, once issued by the PUC, will be provided to Proposers. Proposers should be aware that the Company may be required to share certain confidential information contained in Proposals with the PUC, the State of Hawai‘i Department of Commerce and Consumer Affairs, Division of Consumer Advocacy, and the parties to any docket instituted by the PUC, provided that recipients of confidential information have first agreed in writing to abide by the terms of the Protective Order. Notwithstanding the foregoing, no Proposer will be provided with Proposals from any other Proposer, nor will Proposers be provided with any other information contained in such Proposals or provided by or with respect to any other Proposer.

3.13 Credit Requirements Under the PPA

- 3.13.1 Proposers with whom the Company concludes PPA contract negotiations must post Development Period Security and Operating Period Security in the form of an irrevocable standby letter of credit from a bank chartered in the United States as required and set forth in Article 14 of the RDG PPA.

- 3.13.2 The Development Period Security and Operating Period Security identified in the RDG PPAs are minimum requirements. Proposers shall not propose an amount lower than that set forth in the RDG PPAs.
- 3.13.3 Each Proposer shall be required to provide a satisfactory irrevocable standby letter of credit in favor of the Company from a bank chartered in the United States to guarantee Proposer's payment of interconnection costs for all Company-Owned Interconnection Facilities in excess of the Total Estimated Interconnection Costs and/or all relocation costs in excess of Total Estimated Relocation Costs that are payable to Company as required and set forth in Attachment G to the RDG PPAs.
- 3.13.4 Proposers may be required to provide an irrevocable standby letter of credit in favor of the Company from a bank chartered in the United States in lieu of the required Source Code Escrow in an amount and as required and set forth in Attachment B to the RDG PPAs.

Chapter 4: Evaluation Process and Evaluation Criteria

4.1 Proposal Evaluation and Selection Process

As set forth in Section 1.9.3 above, the Company's Sealed SBO Proposal will only be unsealed and evaluated if certain conditions arise. In the absence of any one of these conditions, the Company will evaluate the other IPP and Affiliate Proposals received in response to this RFP in accordance with this Chapter 4 in determining the Final Award Group and will not open or evaluate the Sealed SBO Proposal. Should one of the following conditions arise, the Company's Sealed SBO Proposal will be opened and evaluated in the same manner as described in this Chapter 4. These conditions are that: (1) there are no IPP or Affiliate Proposals received in response to this RFP, (2) there are no Eligible Proposals that remain after reviewing the Eligibility and Threshold Requirements, (3) all Eligible Proposals fail to pass the fatal flaws analysis during the Non-Price criteria evaluation, or (4) all Eligible Proposals that pass the fatal flaws analysis do not provide a customer benefit in the form of a tangible rate reduction as determined through consultation with the Independent Observer. The Company's Sealed SBO Proposal will need to meet the RFP's Eligibility and Threshold Requirements, pass the fatal flaws analysis, and provide a customer benefit in the form of a tangible rate reduction, as determined through consultation with the Independent Observer, in order to be selected to the Final Award Group.

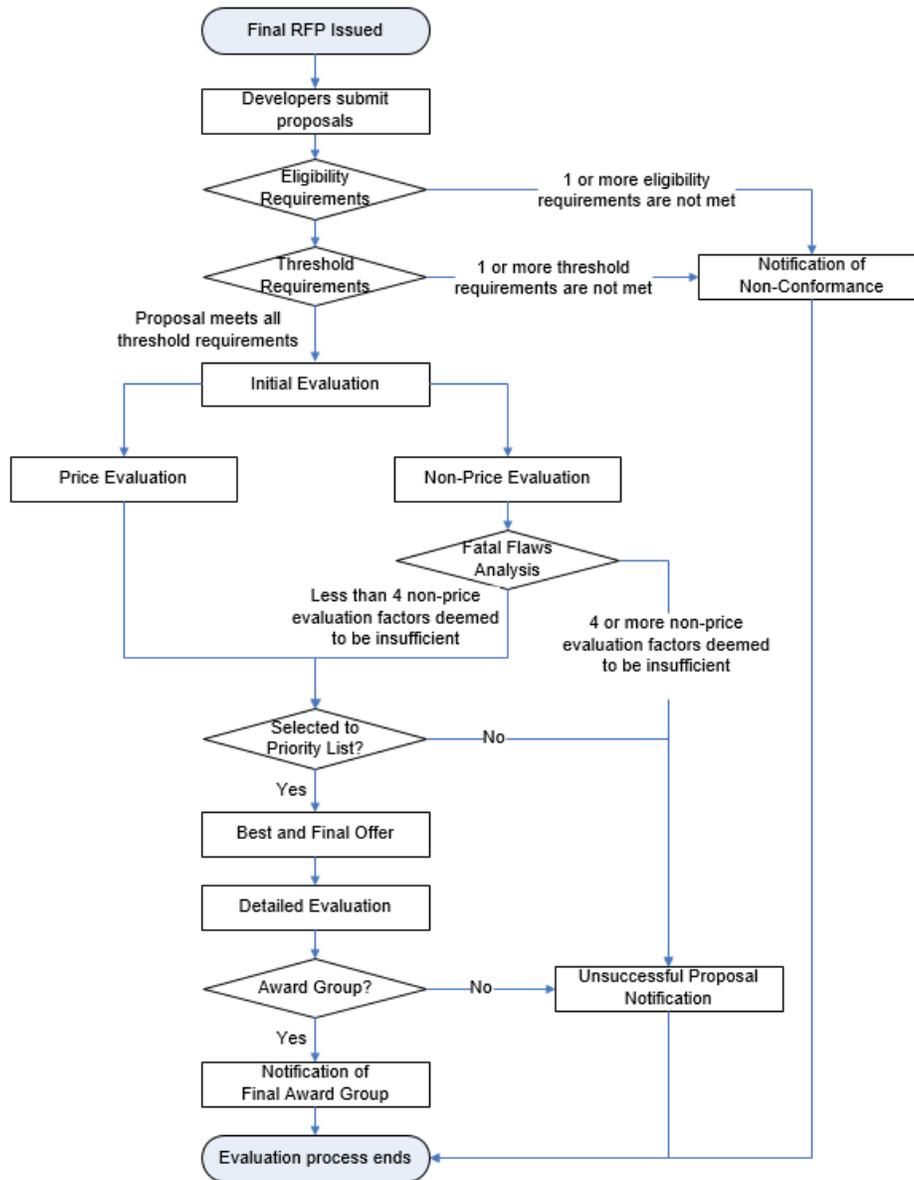
The Company will employ a multi-step evaluation process. Once the Proposals are received, the Proposals will be subject to a consistent and defined review, evaluation, and selection process. This Chapter provides a description of each step of the process, along with the requirements of Proposers at each step. Figure 1 sets forth the flowchart for the proposal evaluation and selection process.

Upon receipt of the Proposals, the Company will ensure that the Proposals meet the Eligibility Requirements, and if so, will review the Proposals to ensure that the Threshold

Requirements have been met. The Company, in coordination with the Independent Observer, will determine if a Proposer is allowed to cure any aspect of its Proposal or whether the Proposal would be eliminated based on failure to meet either Eligibility or Threshold Requirements.¹³ If a Proposer is provided the opportunity to cure any aspect of its Proposal, the Proposer shall be given three (3) business Days to cure from the date of notification to cure. Proposals that have successfully met the Eligibility and Threshold Requirements will then enter a two-phase process for Proposal evaluation, which includes the Initial Evaluation resulting in the development of a Priority List, followed by the opportunity for Priority List Proposals to provide Best and Final Offers, and then a Detailed Evaluation process to arrive at a Final Award Group.

¹³ As a general rule, if a Proposer does not include a requested document, inadvertently excludes minor information, or provides inconsistencies in its information, it may be given a chance to cure such deficiency. If a Proposer fails to provide material required information in its Proposal and providing the Proposer an opportunity to cure is deemed by the Company, in consultation with the Independent Observer, as an unfair advantage to such Proposer, the Proposal could be classified as non-conforming and eliminated for failure to meet the Eligibility Requirements.

Figure 1 – Evaluation Workflow



4.2 Eligibility Requirements Assessment

Upon receipt of the Proposals, each Proposal will be reviewed to ensure that it meets the following Eligibility Requirements.

- The Proposal, including required uploaded files, must be received on time via the PowerAdvocate Platform.
- The Proposal Fee must be received on or before the Proposal Due Date.¹⁴

¹⁴ Proposal Fees will not be required for the Sealed SBO Proposal.

- The Proposal must not contain material omissions.
- The Proposal must be signed and certified by an officer or other authorized person of the Proposer.
- The Proposer must fully execute the agreements or other documents required pursuant to this RFP.
- The Proposer must provide a certificate of good standing from the State of Hawai‘i Department of Commerce and Consumer Affairs.
- The Proposer must provide federal and state tax clearance certificates for the Proposer.
- The Proposal must not be contingent upon changes to existing county, state, or federal laws or regulations.
- The proposed Project must be located on the island of Moloka‘i.
- Project size must be 0.5 MW (500 kW) or greater.
- No single point of failure from the Facility shall result in a decrease in net electrical output greater than 2.7 MW. Additionally, in meeting this requirement, the Facility must be segmented in equally sized capacities (MW).
- Project infrastructure and point of interconnection must be located outside the 3.2 feet sea level rise exposure area (SLR-XA) as described in the Hawai‘i Sea Level Rise Vulnerability and Adaptation Report (2017), and not located within a Tsunami Evacuation Zone.
- Proposals must meet the grid-charging requirements of Section 1.2.10.
- Proposals must specify a GCOD no later than December 31, 2023.

4.3 Threshold Requirement Assessment

Proposals that meet all the Eligibility Requirements will then be evaluated to determine compliance with the Threshold Requirements, which have been designed to screen out Proposals that are insufficiently developed, lack demonstrated technology, or will impose unacceptable execution risk for the Company. Proposers are responsible to provide explanations and supporting information demonstrating how and why they believe the Project they are proposing meets each of the Threshold Requirements. Proposals that fail to provide this information or meet a Threshold Requirement will be eliminated from further consideration upon concurrence with the Independent Observer. The Threshold Requirements for this RFP are the following:

- **Site Control:** The Proposal must demonstrate that the Proposer has Site Control for all real property required for the successful implementation of a specific Proposal at a Site not controlled by the Company, including any Interconnection Facilities for which the Proposer is responsible. The need for a firm commitment is necessary to ensure that Proposals are indeed realistic and can be relied upon as the Company moves through the remainder of the RFP process. In addition, developmental requirements and restrictions such as zoning of the Site and the status of easements must be identified and will be considered in determining whether the Proposal meets the Site Control threshold.

To meet this Site Control requirement, Proposers must do one of the following:

- Provide documentation confirming (1) that the Proposer has an existing legally enforceable right to use and control the Site, either in fee simple or under leasehold, for a term at least equal to the term of the PPA (“Site Control”) as specified in the Proposer’s Proposal (taking into account the timelines set forth in this RFP for selection, negotiation, and execution of a PPA and PUC approval), and (2) the applicable zoning for the Site and that such zoning does not prohibit the development of the Site consistent with the Proposal; or
- Provide documentation confirming, at a minimum, (1) that the Proposer has an executed binding letter of intent, memorandum of understanding, option agreement, or similar document with the land owner (a “binding commitment”) which sets forth the general terms of a transaction that would grant the Proposer the required Site Control, and (2) the applicable zoning for the Site and that such zoning does not prohibit the development of the Site consistent with the Proposal. The binding commitment does not need to be exclusive to the Proposer at the time the Proposal is submitted and may be contingent upon selection of the Proposal to the Final Award Group. If multiple Projects are provided a binding commitment for the same Site, the documents granting the binding commitments must not prevent the Company from choosing the Proposal that otherwise would have been selected.
- **Government/Public Lands Only:** The above two bullet points may not be feasible where government or publicly-owned lands are part of the Site or are required for the successful implementation of the Proposal. In such a case, at a minimum the Proposer must provide a credible and viable plan, including evidence of any steps taken to date, to secure all necessary Site Control for the Proposal, including but not limited to evidence of sufficient progress toward approval by the government agency or other body vested with the authority to grant such approval (as demonstrated by records of the agency). The Proposer will still be required, however, to demonstrate Site Control as required in the applicable RDG PPA should the Proposal be selected to the Final Award Group.
- **Performance Standards:** The proposed Facility must be able to meet the performance attributes identified in this RFP and the Performance Standards identified in the applicable RDG PPA. Proposals should include sufficient documentation to support the stated claim that the Facility will be able to meet the Performance Standards. The Proposal should include information required to make such a determination in an organized manner to ensure this evaluation can be completed within the evaluation review period.
- **Proven Technology:** This criterion is intended as a check to ensure that the technology proposed is viable and can reasonably be relied upon to meet the objectives of this RFP. The Company will only consider Proposals utilizing technologies that have successfully reached commercial operations in commercial applications (i.e., a PPA) at the scale being proposed. Proposals should include any

supporting information for the Company to assess the commercial and financial maturity of the technology being proposed.

- **Experience of the Proposer:** The Proposer, its affiliated companies, partners, and/or contractors and consultants on the Proposer's Project team must have experience in financing, designing, constructing, interconnecting, owning, operating, and maintaining at least one (1) electricity generation project, including all components of the project (i.e., storage or other attributes), similar in size, scope, technology, and structure to the Project being proposed by Proposer. The Company will consider a Proposer to have reasonably met this Threshold Requirement if the Proposer can provide sufficient information in its Proposal's RFP Appendix B Section 2.13 tables demonstrating that at least one member of the Proposer's team (identified in the Proposal) has specific experience in each of the following categories: financing, designing, constructing, interconnecting, owning, operating, and maintaining projects similar to the Project being proposed.
- **Credit/Collateral Requirements:** Proposers shall agree to post Development Period Security and Operating Period Security as described in Section 3.13.
- **Available Circuit Capacity:** The output capacity of the proposed Project must not exceed the available capacity of the circuit to which it will interconnect.
- **Viability of Proposer's Financial Plan:** Proposers must provide a basic financial plan for the Project with details on the sources of debt and equity, capital structure, etc. Evidence must be provided of general support for Project financing.
- **Financial Compliance:** The proposed Project must not cause the Company to be subject to consolidation, as set forth in Financial Accounting Standards Board ("FASB") Accounting Standards Codification Topic 810, Consolidation ("ASC 810"), as issued and amended from time to time by FASB. Proposers are required to state to the best of their knowledge, with supporting information to allow the Company to verify such conclusion, that the Proposal will not result in the Seller under the PPA being a Variable Interest Entity ("VIE") and result in the Company being the primary beneficiary of the Seller that would trigger consolidation of the Seller's finances on to the Company's financial statements under FASB ASC 810. The Company will perform a preliminary consolidation assessment based on the Proposals received. The Company reserves the right to allow a Proposal to proceed through the evaluation process through selection of the Priority List and work with the Proposer on this issue prior to or during PPA negotiations.
- **Community Outreach:** Gaining community support is an important part of a Project's viability and success. A comprehensive community outreach and communications plan ("Community Outreach Plan") is an essential roadmap that guides a developer as they work with various communities and stakeholders to gain their support for a Project. Proposers must include a Community Outreach Plan that describes the Proposer's commitment to work with the neighboring community and stakeholders and to provide them timely Project information during all phases of the Project. The Community Outreach Plan shall include, but not be limited to,

the following information: Project description, community scoping (including stakeholders and community concerns), Project benefits, government approvals, development process (including Project schedule), and a comprehensive communications plan.

4.4 Initial Evaluation – Price and Non-Price Analysis

Proposals that meet both the Eligibility and Threshold Requirements are Eligible Proposals which will then be subject to a price and non-price assessment. Two teams have been established to undertake the Proposal evaluation process: a Price Evaluation Team and Non-Price Evaluation Team. The results of the price and non-price analysis will be a relative ranking and scoring of all Eligible Proposals. Price-related criteria will account for sixty percent (60%) of the total score and non-price-related criteria will account for forty percent (40%) of the total score. The non-price criteria and methodology for applying the criteria are explained in Section 4.4.2.

The Company will employ a closed-bidding process for this solicitation in accordance with Part IV.H.3 of the Framework where the price and non-price evaluation models to be used will not be provided to Proposers. However, the Company will provide the Independent Observer with all necessary information to allow the Independent Observer to understand the evaluation models and to enable the Independent Observer to observe the entire analysis to ensure a fair process. The evaluation models will be finalized prior to the receipt of Proposals.

4.4.1 Initial Evaluation of the Price Related Criteria

For the initial price analysis, an equivalent energy price (Levelized \$/MWh) will be calculated for each proposal based on information provided in the Proposal including the Lump Sum Payment (\$/year), Price for Purchase of Electric Energy (\$/MWh), and the Net Energy Potential (“NEP”) RFP Projection (MWh) information defined in RFP Sections 3.9 and 3.10.

In order to fairly evaluate Proposals with different technologies and characteristics while using an equivalent energy price in Levelized \$/MWh at this stage in the evaluation, the Company will group Proposals into technology-based evaluation categories, as applicable. For example: (1) Wind generation (MWh) and Energy storage; and (2) Solar generation (MWh) and Energy storage.

The Eligible Proposal with the lowest LEP in each evaluation category will receive 600 points. All other Eligible Proposals in that evaluation category will receive points based on a proportionate reduction using the percentage by which the Eligible Proposal’s LEP exceeds the lowest LEP in that evaluation category. For example, if a Proposal’s LEP is ten percent (10%) higher than the lowest LEP in that evaluation category, the Proposal will be awarded 540 points (that is, 600 points less 10%). The result of this assessment will be a ranking and scoring of each Proposal within each evaluation category.

4.4.2 Initial Evaluation of the Non-Price Related Criteria

For the non-price analysis, each Proposal will be evaluated on each of the eight (8) non-price criteria categories set forth below:

- Community Outreach and Cultural Resource Impacts
- State of Project Development and Schedule
- Performance Standards
- Environmental Compliance and Permitting Plan
- Experience and Qualifications
- Financial Strength and Financing Plan
- RDG PPA Contract Exceptions
- Guaranteed Commercial Operations Date

Each of the first three criteria – Community Outreach and Cultural Resource Impacts, State of Project Development and Schedule, Performance Standards – will be weighted twice as heavily as the others to reflect the impact these categories have to achieve a successful and timely procurement. The non-price criteria are generally scored on a scale of 1 (poor) to 5 (highly preferable).

The total non-price score will be the sum of the scores for each of the individual non-price criteria. The Company will then award non-price evaluation points in accordance with the relative ranking of scores within each evaluation category. The Proposal in each evaluation category with the highest total non-price score will receive 400 points, and all other Proposals will receive points equal to the Proposal's score divided by the top score, multiplied by 400.

During the non-price criteria evaluation, a fatal flaws analysis will also be conducted such that any Proposal that is deemed not to meet the minimum standards level¹⁵ for four (4) or more non-price criteria will be disqualified given that the Proposal has failed to meet a majority of non-price factors that are indicative as to the general feasibility and operational viability of a proposed Project.

The Companies' evaluation of the non-price criteria will be based on the materials provided by a Proposer in its Proposal. Acceptance of any Proposal into the Final Award Group shall not be assumed or construed to be an endorsement or approval that the materials provided by Proposer are complete, accurate, or in compliance with applicable law. The Companies assume no obligation to correct, confirm, or further research any of the materials submitted by Proposers. Proposers retain sole responsibility to ensure their Proposals are accurate and in compliance with all laws.

The non-price criteria are:

- **Community Outreach and Cultural Resource Impacts** – Gaining community support is an important part of a Project's viability and success. An effective Community Outreach Plan will call for early meaningful communications with

¹⁵ A score of 3 is the "meets minimum standards" level that a Proposal must achieve in at least five (5) criteria.

stakeholders and will reflect a deep understanding and respect for the community's desire for information to enable them to make informed decisions about future projects in their communities. Therefore, Proposals will be evaluated on the quality of the Community Outreach Plan to inform the Project's impacted communities. Proposers need to also be mindful of the Project's potential impacts to historical and cultural resources. Proposers will be evaluated on their proposed plan to select and engage with a consultant to assess if there are any historical and/or cultural resources at the Site, including the extent to which traditional and customary native Hawaiian rights are exercised in the area, and how any potential historical or cultural resource issues that arise during the term will be addressed.

At a minimum, Proposals should include a Community Outreach Plan that describes the Proposer's commitment to work with the neighboring community and stakeholders and to provide timely Project information during project development, construction, and operation. The Community Outreach Plan shall include, but not be limited to, the following:

- 1) **Project description.** A thorough description including a map of the location of the Project. This information will help the community understand the impact that the Project may have on the community.
- 2) **Community scoping.** Identify stakeholders (individuals, community leaders, organizations), community issues and concerns, and community sentiment.
- 3) **Project benefits.** An explanation of the need for the Project. This will help the community to understand how the Project might benefit their community.
- 4) **Government approvals.** Required government permits and approvals, public hearings, and other opportunities for public comment. This information will help the community to understand the level of public scrutiny and participation that might occur for the Project and the opportunities to provide public comments.
- 5) **Development process.** A Project schedule that identifies key milestones will facilitate the community's understanding of the development process.
- 6) **Communications Plan.** A communications plan including a detailed community outreach schedule that will keep the affected communities and stakeholders informed about the Project's outreach efforts during the early Project development period through construction and operations.

Preference will be given to Proposers who have already identified established contacts to work with the local community, have proposed a community benefits package (including details of the community recipients and benefits package), or have community consultants as part of the Project team doing business in Hawai'i that have successfully worked with communities in Hawai'i on the development of two or more energy projects or projects with similar community issues). These criteria are aligned with the Companies' community engagement expectation whereby all developers will be required to engage in community outreach prior to signing a PPA with the Companies. This process is also outlined in RFP Section 5.3.

At a minimum, Proposers should provide a plan to select and engage with a consultant to assess if there are any historical and/or cultural resources at the Site, and how any potential historical or cultural resource issues that arise during the term will be addressed including the extent to which traditional and customary native Hawaiian rights are exercised in the area. Preference will be given to Proposals that are able to provide a mitigation/action plan or are able to provide a date for when a mitigation/action plan will be available that addresses any identified cultural resource issues.

- **State of Project Development and Schedule** – Projects that are further along in development generally have lower project execution risk and a greater probability of being able to be successfully placed into service prior to the GCOD (specifically identified in each Proposal). At a minimum, Projects should demonstrate how they plan to capture any ITC safe harbor and reach their GCOD specified, including identification of risks and schedule assumptions. (Schedules must identify the IRS completion date and PUC approval dates assumed.) Proposals should also demonstrate, via a detailed critical path schedule, that there is a high likelihood that the Project will be able to reach commercial operations as specified. Proposals shall include a Gantt chart that clearly illustrates the overall schedule and demonstrates achievement of any ITC safe harbor, if applicable, and commercial operations by their specified GCOD. The Gantt chart shall include task durations and dependencies, identify tasks that will be fast tracked, and identifies slack time and contingencies.

This criterion will also look at the high-level Project costs set forth in the Proposal including: costs for equipment, construction, engineering, Seller-Owned Interconnection Facilities, Company-Owned Interconnection Facilities, land, annual O&M, the reasonableness of such costs, and the assumptions used for such costs. Project costs that do not appear reasonable for a project of the size proposed may result in a lower ranking for this criterion if the Company reasonably determines that the cost information is unrealistic based on prior experience in the market which may result in a risk that the Project can be built on time and for the price proposed by the Proposer. The Company reserves the right to discuss any cost and financial information with a Proposer to ensure the information provided is accurate and correct.

- **Performance Standards:** The proposed Facility must be able to meet the performance attributes identified in this RFP and the Performance Standards identified in the RDG PPA. The Company will review the Proposal information received, including design documents and operating procedures materials provided in the Proposal, and evaluate whether the Project as designed is able to meet the Performance Standards identified in the RDG PPA and in this RFP. At a minimum, in addition to meeting the Performance Standards, the Proposals should include sufficient documentation, provided in an organized manner, to support the stated claim that the Facility will be able to meet the Performance Standards. The Proposal should include information required to make such a determination in an organized manner to ensure this evaluation can be completed on a timely basis.

Preference will be given to Proposals that provide detailed technical and design information showing how each standard can be met by the proposed Facility. Preference will also be provided to proposed Projects that offer additional capabilities (e.g., Black Start).

- **Environmental Compliance and Permitting Plan** – This criterion relates to the potential (short- and long-term) environmental impacts associated with each project, the quality of the plan offered by the Proposer to mitigate and manage any environmental impacts (including any pre-existing environmental conditions), and the plan of Proposers to remain in environmental compliance over the term of the contract. These impacts are reflected on a technology-specific basis. Completing any necessary environmental review and obtaining the required permitting in a timely manner is also important and Proposals will be evaluated on their plan to identify, apply for, and secure the required permits for the Project, any permitting activity that has been completed to date, including having initial discussions with U.S. Fish and Wildlife and the State of Hawai'i Department of Land and Natural Resources' Division of Forestry and Wildlife, to the extent applicable, prior to submitting a Proposal, and the degree of certainty offered by the Proposer in securing the necessary permits.

At a minimum, proposed Projects should be expected to have minimal environmental impact for most areas and Proposals should provide a comprehensive plan to mitigate the identified potential or actual significant environmental impacts to remain in environmental compliance. The proposed mitigation plans should be included in the Project timeline. Preference will be given to Proposals that provide a more detailed plan as well as those that have proactively taken steps to mitigate potential environmental impacts.

Also, this criterion requires that, at a minimum, Proposers should have identified, and disclosed in their Proposal(s), all major permits, approvals, appurtenances, and entitlements (including applicable access, rights of way and/or easements) (collectively, the "permits") required and have a preliminary plan for securing such permits. Preference will be given to Proposals that are able to provide a greater degree of certainty that its plan to secure the required permits is realistic and achievable, or have already received all or a majority of the required permits. The Proposer should disclose all identified (a) discretionary permits required, i.e., those regarding public or contested case hearings and/or review and discretionary approval by an appropriate governmental agency and (b) ministerial permits required, i.e., those requiring the submission of documents or other ministerial conditions without discretionary approval conditions. In all cases, the Proposer must provide a credible and viable plan, including evidence of any steps taken to date, to secure all necessary and appropriate permits necessary for the project. For example, if the project is located within an agricultural district, the Proposer shall provide evidence of Proposer's verification with the appropriate government agency that the project complies with HRS Section 205-2 and Section 205-4.5, relating to solar energy facilities placed on agricultural land, provided, however, that where a special use permit (under Section 205-6), exemption (under Section

205-6), or amendment to land use district boundary lines (under Section 205-4) is required to secure such compliance, Proposer shall identify the need for such permit, exemption, or amendment and provide a list of required prerequisites and/or conditions and a realistic timeline necessary to obtain such permit, exemption, or amendment satisfactory for Proposer to still meet its designated GCOD.

- **Experience and Qualifications** –Proposals will be evaluated based on the experience of the Proposer in financing, designing, constructing, interconnecting, owning, operating, and maintaining projects (including all components of the project) of similar size, scope and technology. At a minimum, Proposals must show via the table format specified in RFP Appendix B Section 2.13 that at least one (1) member must have specific experience in each of the following categories: financing, designing, constructing, interconnecting, owning, operating, and maintaining at least one electricity generation project including all components of the project similar to the Project being proposed. Preference will be given to Proposers with experience in successfully developing multiple projects that are similar to the one being proposed and/or that have prior experience successfully developing and interconnecting a utility scale project to the Company's System.
- **Financial Strength and Financing Plan** – This criterion addresses the comprehensiveness and reasonableness of the financial plan for the Project as well as assesses the financial strength and capability of the Proposer to develop the Project. A complete financial plan addresses the following issues: Project ownership, capital cost and capital structure, sources of debt and equity, and evidence that credit-worthy entities are interested in financing the Project. The financial strength of Proposers or their credit support providers will be considered, including their credit ratings. The financing participants are expected to be reasonably strong financially. Developers and their sources of capital that have investment grade credit ratings from a reputable credit rating agency (S&P, Moody's, Fitch) will also be given preference, with those that have higher credit ratings ranked higher.
- **RDG PPA Contract Proposed Modifications** –Proposers are encouraged to accept the contract terms identified in the model agreements in their entirety in order to expedite the overall RFP process and potential contract negotiations. Proposers who accept the model agreements without edits will receive a higher score and will be the only proposals that can achieve the highest scoring for this non-price evaluation. Technology-specific or operating characteristic-required modifications, with adequate explanation as to the necessity of such modifications, will not jeopardize a project's ability to achieve the highest score. Proposers who elect to propose modifications to the model agreements shall provide a Microsoft Word red-line version of the applicable document identifying specific proposed modifications to the model agreement language, as well as a detailed explanation and supporting rationale for each modification. General comments without proposed alternate language, drafting notes without

explanation or alternate language, footnotes such as “parties to discuss,” or a reservation of rights to make additional modifications to the model agreements at a later time are unacceptable, will be considered unresponsive, and will result in a lower score. The Company and Independent Observer will evaluate the impact that the proposed modifications will have on the overall risk assessment associated with the evaluation of each Proposal.

- **Guaranteed Commercial Operations Date:** The Company is procuring resources and incorporating projects onto its System in Stages as part of its long-term plan to meet RPS goals. Proposers will be held to the Guaranteed Commercial Operations Date identified in their Proposal. The GCOD will be a Guaranteed Milestone and will be inserted without amendment into the RDG PPAs or ESPPA, as applicable. Proposers that are able to design for and commit to an earlier GCOD will be given more favorable scoring. Proposers must have met the GCOD requirements of RFP Section 1.2.12 prior to being evaluated in this non-price criterion.

4.5 **Selection of a Priority List**

At the conclusion of both the price and non-price analysis, a total score will be calculated for each Proposal using the 60% price-related criteria / 40% non-price-related criteria weighting outlined above. The price and non-price analysis, and the summation of both price and non-price scores described above, will result in a ranking of proposals within each technology-based evaluation category.

The Company will determine a Priority List from the highest scoring Proposals for each technology-based evaluation category. Each Priority List will include a sufficient number of projects, but not less than two (2) Proposals per technology-based evaluation category, such that the Company can assemble portfolio combinations that meet or exceed the Renewable Energy MWh target for comparison in the Detailed Evaluation. The Companies will develop the Priority Lists in consultation with the Independent Observer. The Companies reserve the right, in consultation with the Independent Observer, to limit the projects allowed for further consideration in the initial evaluation to projects that fall within 15% of the lowest price proposed per technology-based evaluation category. Selection to the Priority List does not assure an Eligible Project’s inclusion in the selection of the Final Award Group.

4.6 **Best and Final Offer (BAFO)**

- 4.6.1 The Company will solicit a Best and Final Offer from Proposers selected to a Priority List in a technology-based evaluation category. If the Sealed SBO Proposal is selected to a Priority List, the Self-Build Team will not be eligible to provide a Best and Final Offer and the original pricing submitted in its Sealed SBO Proposal will be used in the Detailed Evaluation. All other Proposers selected to a Priority List will have the opportunity to

update (downward only)¹⁶ the pricing elements in their Proposal to improve the competitiveness of their Proposal prior to being further assessed in the Detailed Evaluation phase. At this time, updates may only be made to the following pricing elements:

- Lump Sum Payment (\$/year) amount
- Price for Purchase of Electric Energy (\$/MWh) amount. Payment for delivery of net energy sourced from the variable generation resource, if applicable. No Energy Payment will be provided for any energy delivery that is sourced originally from the grid (Company's System).

Proposers will not be allowed to increase their price¹⁷ but may elect to maintain the same pricing submitted in their original Proposal. Proposers will not be allowed to make any other changes to their Proposal during the Best and Final Offer.

4.6.2 If a Proposer does not propose improvements to their pricing elements during the Best and Final Offer solicitation, the original Proposal pricing elements will be deemed its Best and Final Offer.¹⁸

4.7 Detailed Evaluation

The Best and Final Offers of the Priority List Proposals, as well as original Self-Build Proposals if advanced to the Priority Listed Proposals, will be further assessed in the Detailed Evaluation to identify the Priority List Proposals that meet the variable renewable dispatchable generation MWh target to determine the Proposals selected to the Final Award Group.

The Company intends to use a computer model for this analysis. The evaluation will be based on the Total Net Cost (Costs and Benefits) to the Company of integrating the combination of Priority List Proposals onto the Company's System which includes:

1. The cost to dispatch the combination of Projects and the energy and storage purchased;
2. The fuel cost savings (benefits) and any other direct savings (IPP savings from dispatchable fossil fuel savings) resulting from the displacement of generation by the Priority List Proposals, including consideration of round-trip efficiencies;
3. The estimated increase (or decrease) in operating cost, if any, incurred by the Company to maintain system reliability; and

¹⁶ Proposers will only be allowed to adjust pricing elements downward. No upward adjustment to the pricing elements will be permitted or considered. All other characteristics of the Proposal and Facility capabilities must remain valid and unchanged (e.g., NEP, GCOD, etc.)

¹⁷ Proposers will not be allowed to increase the pricing in their Proposals to address interconnection and/or system upgrade costs or for any other reason.

¹⁸ The Company reserves the right, in consultation with the Independent Observer, to adjust the parameters of the BAFO, in the unlikely event that system needs have evolved in a way that the Proposals received do not fully address.

4. The cost of imputed debt, if applicable.

As noted, the Company will take into account the cost of rebalancing its capital structure resulting from any debt or imputed debt impacts associated with each Proposal (including any costs to be incurred by the Company, as described above, that are necessary in implementing the Proposal). The Company proposes to use the imputed debt methodology published by S&P that is applicable to the Proposal being evaluated. S&P views long-term PPAs as creating fixed, debt-like financial obligations that represent substitutes for debt-financed capital investments in generation capacity. By adjusting financial measures to incorporate PPA fixed obligations, greater comparability of utilities that finance and build generation capacity and those that purchase capacity to satisfy new load are achieved.

During the Detailed Evaluation and before the Proposals advance to the Final Award Group, the Company will perform load flow analyses to determine if certain Project combinations introduce circuit constraints that will factor into the selection process. This is to address the possibility that even though sufficient line capacity was identified for an individual Project, large Projects on separate circuits that are in close proximity with each other could introduce additional circuit constraints. The Projects selected must not have any additional constraints imposed based on the load flow analysis to advance to the Final Award Group. However, the Company reserves the right, in consultation with the Independent Observer, to allow minor modifications to a Proposal to avoid such additional constraints. If such modification resulted in a reduced size of the Facility, the pricing proposed would also need to be revised. Under no circumstances would a Proposer be allowed to increase their price as a result of such minor modification. In addition, the Company will ensure Projects selected to the Final Award Group are not on the same distribution circuit (multiple projects may interconnect at the Pala'au Generating Station).

Also in the Detailed Evaluation, other factors will be validated to ensure that the final combination of Projects provides the contemplated benefits that the Company seeks. The Company will evaluate the collateral consequences of the implementation of a combination of Projects, including consideration of the geographic diversity, resource diversity, interconnection complexity, and flexibility and latitude of operation control of the Projects.

The Company may assess additional combinations of Projects if requested by the Independent Observer and if the time and capability exist to perform such analyses.

4.8 **Selection of the Final Award Group**

Based on the results of the Detailed Evaluation and review of the results with the Independent Observer, the Company will select a Final Award Group from which to begin contract negotiations. The Company intends to select projects that meet the targeted needs and provide customer benefits. All Proposers will be notified at this stage of the evaluation process whether their Proposal is included in the Final Award Group.

Selection to the Final Award Group and/or entering into contract negotiations does not guarantee execution of a PPA.

Further, if at any time during the evaluation process it is discovered that a Proposer's Proposal contains incorrect or misrepresented information that have a material effect on any of the evaluation processes, including selection of the Priority List or the Final Award Group, the Company reserves the right, at any time prior to submission of the PPA Application with the PUC application, in consultation with the Independent Observer, to disqualify the Proposer from the RFP. If discovery of the incorrect or misrepresented information is made after the Company has filed its PUC application for approval of the PPA with the Proposer, the Company will disclose the incorrect or misrepresented information to the PUC for evaluation and decision as to whether such Proposer should be disqualified and the Company's application dismissed.

Following any removal of a Proposal from the Final Award Group, either by disqualification noted immediately above, or via any other removal or withdrawal of a Proposal, including failure to reach agreement to the PPA, the Company, taking into consideration the timing of such removal and the current status of the Company's needs under the RFP, in consultation with and concurrence from the Independent Observer, will review the Priority List to determine (1) if another Proposal should be added to the Final Award Group; (2) if either of the Contingency Plan or Parallel Plan should be pursued; or (3) if the remaining Proposals in the Final Award Group should remain unchanged.

Order No. 36536 "directs the Companies to work with the [Independent Observers] to increase bid transparency within the RFP process, while maintaining an appropriate level of confidentiality regarding bids and bidders." The Companies agree that it is desirable for the RFP process to be as transparent as possible while maintaining the confidentiality of Proposer and Proposal information. The type and quantity of information that can be disclosed will not be known until the Companies and the Independent Observer have a better understanding of the number and types of Proposals received and whether such information can be easily anonymized. The Companies will work with the Independent Observers to determine an appropriate level of disclosure after Proposals are received with a goal of disclosing more information than was disclosed in the Companies' Stage 1 RFPs for O'ahu, Maui, and Hawai'i island.

Chapter 5: Post Evaluation Process

5.1 Interconnection Requirements Study Process

A complete package of IRS Data Request worksheets and project single line diagram(s) shall be submitted with each Proposal. For Projects with a proposed GCOD in 2022, the models for equipment and controls, list(s) to clearly identify the components and respective files (for inverters and power plant controller), and complete documentation with instructions, shall be submitted within 60 days thereafter. See Section 2.11.1 of Appendix B. For all other Projects, the same complete submittal shall be due within 60 days after selection to the Final Award Group. PSSE Generic models, PSSE User models,

and ASPEN models shall be configured to represent all of the functional equipment with settings in place to comply with the Company's PPA performance requirements. These must be checked for functionality by the Proposer or its vendors and consultants prior to submission to the Company. Similar and fully accurate PSCAD models shall be submitted in a condition that complies with the PSCAD modeling guidelines provided by the Company. PSSE generic models shall be provided promptly after the PSSE user models have been approved by the Company.

After proposals and models are submitted, the Company will inspect the data packages for general completeness. For any incomplete submissions, a list of missing or non-functional items will be provided. Proposers will be given 15 Days to resolve data and modeling deficiencies. The Company, in consultation with the Independent Observer, may remove Proposals from the Priority List or Final Award Group, if their submission requirements are deemed incomplete for the lack of requested models. Proposals that are complete will be considered for further evaluation. A formal, technical model checkout will be deferred until a later date when IRS Agreements and deposits are in place, so that the expert subject matter work can be provided by the Company's IRS consultant(s).

Upon notification of selection to the Final Award Group, the Company will provide a draft IRS Agreement for each selected project, with a statement of required deposit for individual and prorated work as part of an IRS Scope for a System Impact Study that will involve (a) technical model checkout for each project, (b) any considerations that are specific to a particular project and location, and (c) system impact analyses of the projects as a group. Interconnection cost and schedule, including cost of any required system upgrades, will be determined in a subsequent Facilities Study.

The technical model checkouts will be conducted first. Upon identification of any functional problems or deficiencies, corrective action shall be taken immediately and on an interactive basis so that the problems or deficiencies can be resolved within 15 Days, including re-submission of data and updated models, or the Project shall be deemed withdrawn. At the discretion of the Company and provided that there is a demonstration of good faith action to minimize delay that would affect the schedule for IRS analyses, a second round of model checkout and problem solving may proceed. Thereafter, any notice that a Project is deemed withdrawn for lack of completeness shall be final. Subject to consultation with the Independent Observer, failure to provide all requested material within the time(s) specified, or changes to the data provided after the due date(s), shall result in elimination from the Final Award Group.

Proposers shall be responsible for the cost of the IRS, under separate agreements for the System Impact Study and the Facilities Study. The overall IRS will provide information including, but not limited to, an estimated cost and schedule for the required Interconnection Facilities for a particular Project and any required mitigation measures. Proposers will be responsible for the actual final costs of all Seller-Owned Interconnection Facilities and Company-Owned Interconnection Facilities. Upon reviewing the results of the IRS, Proposers will have the opportunity to declare the PPA null and void in the event that the estimated interconnection costs and schedule for the

Project are higher than what was estimated in the Project Proposal. See Section 12.4 of the RDG PPA.

5.2 **Contract Negotiation Process**

Within five (5) business Days of being notified by the Company of its intent to enter into contract negotiations, Proposers selected for the Final Award Group will be required to indicate, in writing to the Company's primary contact for this RFP, whether they intend to proceed with their Proposals. Proposers who elect to remain in the Final Award Group will be required to keep their Proposal valid through the award period. Contract negotiations will take place in parallel with the IRS process. The Company's goal is to complete contract negotiations and submit executed PPAs for approval within six (6) months of notification of intent to enter contract negotiations. The IRS may not be completed at such time. The Company intends to execute and file the PPA with the PUC for approval and later amend the PPA to include the results of the IRS.

5.3 **Community Outreach and Engagement / Cultural Resource Impacts**

The public meeting and comment solicitation process described in this Section and Section 29.21 of the model RDG PPA (Community Outreach Plan) do not represent the only community outreach and engagement activities that can or should be performed by a Proposer. Within 30 Days of the start of PPA negotiations, Proposers shall have provided the Company with an updated comprehensive Community Outreach Plan to work with and inform neighboring communities and stakeholders and to provide them timely information during all phases of the Project. The Community Outreach Plan shall include but not be limited to the following information: Project description, Project stakeholders, community concerns and Proposer's efforts to address such concerns, Project benefits, government approvals, Project schedule, and a comprehensive communications plan. Upon selection to the Final Award Group, a Proposer's Community Outreach Plan shall be a public document available to the public on the Proposer's website and upon request. The Proposer shall also provide the Company with links to their Project website and Community Outreach Plan, which the Company will post on the Company's website. Prior to the execution date of the PPA, Proposers shall also host a public meeting in the community where the proposed Project is to be located for community and neighborhood groups in and around the vicinity of the Project Site that provided the neighboring community, stakeholders and the general public with: (i) a reasonable opportunity to learn about the proposed Project; (ii) an opportunity to engage in a dialogue about concerns, mitigation measures, and potential community benefits of the proposed Project; and (iii) information concerning the process and/or intent for the public's input and engagement, including advising attendees that they will have thirty (30) calendar days from the date of said public meeting to submit written comments to Company and/or Proposer for inclusion in the Company's submission to the PUC of its application for a satisfactory PUC Approval Order. The Proposer shall collect all public comments, and then provide the Company copies of all comments received in their original, unedited form, along with copies of all comments with personal information redacted and ready for filing. If a PPA is executed by the Proposer and the Company, the Company may submit any and all public comments (presented in its original, unedited form) as part of

its PUC application for this Project. Proposers shall notify the public at least three weeks in advance of the meeting. The Company shall be informed of the meeting. The Company will provide Proposers with detailed instructions regarding the community meeting requirement after the selection of the Final Award Group. (For example, notice will be published in county or regional newspapers/media, as well as media with statewide distribution. The Proposer will be directed to notify certain individuals and organizations. The Proposer will be provided templates to use for the public meeting notices, agenda, and presentation.) Proposers must also comply with any other requirement set forth in the PPA relating to Community Outreach.

Following the submission of the PUC application for the Project, and prior to the date when the Parties' statements of position are to be filed in the docketed PUC proceeding for the Project, the Proposer shall provide another opportunity for the public to comment on the proposed Project. The Proposer's statement of position filed in the docket associated with the Project will contain an attachment including those comments.

The Proposer shall be responsible for community outreach and engagement for the Project, and that the public meeting and comment solicitation process described in this section do not represent the only community outreach and engagement activities that can or should be performed.

Within 30 Days of the start of PPA negotiations, the Proposer shall contract with a consultant to begin a cultural impact assessment for the Project. The consultant shall identify (1) valued cultural, historical, or natural resources in the area in question, including the extent to which traditional and customary native Hawaiian rights are exercised in the area; (2) the extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and (3) the feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

5.4 **Greenhouse Gas Emissions Analysis**

Proposers whose Proposal(s) are selected for the Final Award Group shall cooperate with and promptly provide to the Company and/or Company's consultant(s) upon request all information necessary, in the Company's sole and exclusive discretion, for such consultant to prepare a greenhouse gas ("GHG") emissions analysis and report in support of a PUC application for approval of the PPA for the project (the "GHG Review"). Proposers shall be responsible for the full cost of the GHG Review associated with their project under a separate agreement between the Proposer and the Company. The GHG Review is anticipated to address whether the GHG emissions that would result from approval of the PPA and subsequent to addition of the Project to the Company's system are greater than the GHG emissions that would result from the operations of the Company's System without the addition of the Project, whether the cost for renewable, dispatchable generation, and/or energy storage services as applicable under the PPA is reasonable in light of the potential for GHG emissions, and whether the terms of the PPA

are prudent and in the public interest in light of its potential hidden and long-term consequences.

5.5 **PUC Approval of PPA**

Any signed PPA resulting from this RFP is subject to PUC approval as described in the RDG PPA, including Article 12 and Section 29.20 thereof.

5.6 **Facility In-Service**

The Company requires the following be included with the 60% design drawings: relay settings and protection coordination study, including fuse selection and ac/dc schematic trip scheme.

For the Company to test the Facility, coordination between the Company and Project is required. Drawings must be approved by the Company prior to testing. The entire Facility must be ready for testing to commence. Piecemeal testing will not be allowed. Communication infrastructure and equipment must be tested by the IPP and ready for operation prior to Company testing.

If approved drawings are not available, or if the Facility is otherwise not test ready as scheduled, the Project will be moved to the end of the Company's testing queue. If tests are not completed within the allotted scheduled testing time, the Project will be moved to the end of the Company's testing queue. The IPP will be allowed to cure if successful testing is completed within the allotted scheduled time. No adjustments will be made to PPA milestones if tests are not completed within the original allotted time. Liquidated damages for missed milestones will be assessed pursuant to the PPA.