

PROPOSAL SUBMISSION AGREEMENT

THIS PROPOSAL SUBMISSION AGREEMENT (this “Agreement”) is made and entered into effective on _____, 2020 (the “Effective Date”), by _____, a _____ (“Bidder”), in favor of Entergy Texas, Inc. (“ETP”).

RECITALS

WHEREAS, in response to the 2020 Request for Proposals for Combined-Cycle Gas Turbine Capacity and Energy Resources for Entergy Texas, Inc. , dated _____, 2020 (as amended, supplemented, or otherwise modified, the “RFP”), Bidder is submitting and delivering to Entergy Services, LLC (“ESL”) (i) one or more Proposals (defined below) to ESL and (ii) this Agreement; and

WHEREAS, Bidder desires to continue to participate, and ESL desires to permit Bidder to continue to participate, in a competitive bidding process for the potential purchase of energy capacity and energy resources pursuant to the RFP (the “RFP Process”) on the terms and subject to the conditions set forth in this Agreement; and

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

AGREEMENT

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

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

“Bid Event Coordinator” means the administrator of the RFP set forth in Section 1.5 of the main body of the RFP.

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

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“Definitive Agreement” means a legally binding agreement, mutually executed and delivered by duly authorized representatives of ESL or ETI and Bidder (or the seller under the proposal submitted by Bidder that is the basis of such agreement), setting forth the definitive terms and conditions of a Transaction arising out of the RFP. For the avoidance of doubt, a “Definitive Agreement” does not include a letter of intent, memorandum of understanding, other similar preliminary written agreement or document with respect to a Transaction, or any acceptance, written, oral or other, of any offer or proposal submitted by Bidder (or the seller pursuant to or in connection with the Proposal).

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

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

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

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

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

“Term Sheets” means the term sheets that summarize, describe, or address certain commercial terms that would apply to any Transaction arising out of this RFP. The Term Sheets are available on the 2020 ETI RFP website: <https://spofossil.entergy.com/ENTRFP/SEND/2020ETICCGTRFP/>.

“Transaction” means a commercial transaction arising or resulting from the RFP in which Bidder (or the seller under the proposal submitted by Bidder that is the basis of such agreement) provides to ETI, buyer capacity, capacity-related benefits, energy, other electric products, and environmental attributes (if any) from a specified generation resource, whether existing or to be built, pursuant to a Definitive Agreement and that is structured as a power purchase or tolling agreement or a purchase and sale of such generation resource (under a build-own-transfer agreement if the purchase and sale is of a new-build resource or an asset purchase agreement if the purchase and sale if of an existing resource).

Terms not defined in this Section 1 but defined elsewhere in this Agreement have the corresponding meanings given to such terms elsewhere in this Agreement.

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

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(a) Bidder has all requisite power and authority to execute and deliver this Agreement and perform its obligations hereunder. The execution, delivery, and performance of this Agreement by Bidder have been duly authorized by all necessary action on the part of Bidder and do not violate, conflict with, or result in a breach of any provision of its organizational or governing documents. This Agreement constitutes a legally valid and binding obligation enforceable against Bidder in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to creditors' rights generally or general principles of equity (whether considered in a proceeding at law or in equity). Bidder is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, has had complete discretion in seeking and obtaining the advice and counsel of experts relating to specialized subject matter of this Agreement, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Agreement.

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

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

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

3. ESL Disclaimer. Bidder understands, acknowledges, and agrees that (i) except as may be expressly provided in a Definitive Agreement, any and all material and information

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furnished by or on behalf of ESL in connection with the RFP Process, including, without limitation, information contained in the RFP, is being or will be provided without any representation or warranty of any kind as to the material or information so provided, including, without limitation, accuracy or completeness; (ii) except as otherwise provided in Section 4 below, neither ESL nor any ESL Representative shall have any liability to Bidder or any Bidder Representative relating to or arising from the use of or reliance upon any such information or any error or omission therein or otherwise in connection with the RFP Process; and (iii) the material, information, and processes described by ESL in the RFP or otherwise provided by either ESL or an ESL Representative in connection with the RFP Process are merely statements or indications of ESL's current intent, and such statements or indications create no binding obligation or actionable promise or inducement on the part of ESL or ESL Representative.

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

5. ESL RFP Process Discretion. Bidder understands, acknowledges, and agrees that, subject to applicable Laws, (i) ESL shall be free to conduct the process for any Transaction, including, without limitation, the RFP Process, as ESL determines in its sole and absolute discretion, (ii) the RFP and any procedures relating to the RFP Process may be changed at any time without notice to Bidder or any other person, and (iii) the provisions of Appendix E (Reservation of ESL Rights and Other RFP Terms) of the RFP (available to Bidder on the RFP website (the link to which is provided in Section 1 above, in the definition of Term Sheets) apply to, are accepted by, and are enforceable against Bidder, and such provisions are incorporated herein by reference. Except in a proceeding before FERC, the Public Utility Commission of Texas, or a court described in Section 10 below, Bidder shall not assert, and hereby knowingly, voluntarily, and unconditionally forever waives and disclaims any right to assert, in any regulatory or judicial forum, any claim or complaint, and any and all rights derivative or arising out of any such claim or complaint, regarding or related to the conduct or result of the RFP Process.

6. Bidder Qualifications. Bidder has previously provided, or is providing as part of its Proposal(s), or from time to time after Bidder's execution of this Agreement may provide, to ESL certain information with respect to Bidder's qualifications to participate in the RFP Process. Bidder represents and warrants to ESL that all such information that Bidder has previously

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provided or is providing in its Proposal(s) is true and accurate as of the Effective Date and that any such information Bidder may hereafter provide concerning its Proposal(s) will be true and accurate as of the date Bidder provides it to ESL. Bidder agrees that, so long as Bidder continues to participate in the RFP Process and the applicable RFP document(s) do not otherwise provide, Bidder will promptly inform ESL of any material change in any of the information provided by Bidder regarding Bidder's qualifications to participate in the RFP Process and will promptly provide ESL with subsequently filed or prepared information (including, without limitation, any financial statements and reports) of the type previously provided or contemplated.

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

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

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

10. Governing Law; Jurisdiction and Venue; Waiver of Jury Trial. This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by and under the laws of the State of New York (without giving effect to principles of conflicts of laws) (other than Section 5-1401 of the New York General Obligations Law). Any

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and all claims, demands, causes of action, disputes, controversies, and other matters in question arising out of or relating to this Agreement, including any question regarding its breach, existence, validity, or termination, which the Parties do not resolve amicably, will be submitted to the sole and exclusive jurisdiction of the United States District Court for the Southern District of Texas in Harris County, Texas, or if such action or proceeding does not meet the requirements for federal jurisdiction thereof by such court, the state courts with jurisdiction located in Montgomery County, Texas, and appellate courts from any thereof. BIDDER HEREBY EXPRESSLY AND IRREVOCABLY WAIVES AND AGREES NOT TO ASSERT (I) THE DEFENSE OF LACK OF PERSONAL JURISDICTION, *FORUM NON CONVENIENS*, OR ANY SIMILAR DEFENSE WITH RESPECT TO THE MAINTENANCE OF ANY SUCH ACTION, CLAIM, OR PROCEEDING IN HARRIS OR MONTGOMERY COUNTY, TEXAS, AS APPLICABLE, AND (II) THE RIGHT TO TRIAL BY JURY IN ANY SUCH ACTION OR PROCEEDING.

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

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

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

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

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

IN WITNESS WHEREOF, Bidder has executed this Agreement as of the Effective Date and in the manner first written above.

Bidder ID: _____

Resource ID: _____

Proposal ID: _____

Bidder Name: _____

By: _____

Name: _____

Title: _____