

2019 Carbon-Free Power

MBCP-SVCE Joint RFP

## Exhibit B: Term Sheet

### Power Purchase Agreement Term Sheet

*This is an indicative Term Sheet (“Term Sheet”) that includes the key commercial terms and conditions that MBCP & SVCE expect to be included in a power purchase agreement (“PPA”) that will be negotiated between selected Bidder(s) and MBCP & SVCE as a result of MBCP’s & SVCE’s 2019 Joint Request for Proposals (“RFP”). It describes the sale from Seller to MBCP & SVCE of energy, resource adequacy, and all environmental attributes associated with the output from the Facility. Until a definitive agreement is approved by MBCP & SVCE management and the MBCP & SVCE Boards of Directors, and signed and delivered, no party shall have any legal obligations, expressed or implied, or arising in any other manner, under this Term Sheet. Note that all reference to days refers to calendar days, not business days.*

<b>Seller:</b>	[Seller Name] <i>(if Seller is a Project LLC, please also provide parent name who will be providing credit support and financial information)</i>
<b>Buyer:</b>	Monterey Bay Community Power Authority & Silicon Valley Clean Energy Authority (“MBCP & SVCE”), California Joint Powers Authorities in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.). BUYERS are public entities separate from its members and BUYERS’ members have no liability for any obligations or liabilities of BUYERS. BUYERS shall be solely responsible for all debts, obligations and liabilities to SELLER, and SELLER shall have no rights against, and shall not make any claim, take any action, or assert any remedy against any of BUYERS’ members, any cities or counties participating in BUYERS’ community choice aggregation programs, or any of BUYERS’ retail customers.
<b>Facility:</b>	The [___] project, located in [County], in the State of California, (the “Project”). Please include: <ul style="list-style-type: none"> <li>• type of renewable energy;</li> <li>• proposed primary technology; and</li> <li>• potential name of project.</li> <li>• If adding an energy storage system, complete the Storage Term Sheet below.</li> </ul>
<b>Installed Capacity:</b>	[___] MW <sub>AC</sub>
<b>Buyers’ Contract Capacity:</b>	[___] MW <sub>AC</sub>
<b>Buyers’ Output Share:</b>	[XX%].  <i>(Note: If Buyer’s Output Share is less than 100%, please provide additional details on the allocation arrangement.)</i>
<b>Product:</b>	The Product includes all of the following: (1) Delivered Energy: Buyer’s Output Share of the as-available electric energy generated by the Facility, delivered to the Delivery

	<p>Point, as measured by California Independent System Operator (CAISO)-approved meters, pursuant to the Scheduling Requirements;</p> <p>(2) Environmental Attributes: All renewable energy credits (“RECs”) and any other environmental attributes associated with Delivered Energy;</p> <p>(3) Capacity Rights: Buyer’s Output Share of all capacity rights, including resource adequacy benefits, if any, associated with the Facility; and</p> <p>(4) Ancillary Services: All ancillary services, products and other attributes, if any, associated with the Buyer’s Output Share of the Facility.</p> <p>Unless otherwise agreed upon by the parties, the Product shall meet the Portfolio Content Category 1 specifications.</p> <p><i>(Note 1: Specifications for Portfolio Content Category 1 are described in California Public Utilities Code §399.16, California Public Utilities Commission Decision 11-12-052, and other applicable statutes, regulations, and regulatory orders.</i></p> <p><i>Note 2: SELLER shall be responsible for obtaining full capacity deliverability status with the CAISO for the full Contract Capacity and shall cooperate with BUYERS to ensure that the full qualifying capacity of the Project is eligible for BUYERS’ use in satisfying its resource adequacy obligations.</i></p> <p><i>Note 3: Buyers have a preference for all product attributes. Seller may elect to provide a sub-set of the above-named attributes and must clearly indicate this change.)</i></p>
<b>PPA Effective Date and Delivery Term Start Date</b>	<p>The PPA Effective Date is the date the PPA is mutually executed.</p> <p>The Delivery Term Start Date shall occur on the date when Buyer confirms Seller has achieved COD (defined below).</p> <p><i>(Note: Delivery Term Start Date shall not be earlier than January 1, 2021; provided, however that Seller may bring the Facility on line up to sixty (60) days prior to the Guaranteed Commercial Operation Date, as defined below. Delivery Term Start Date shall not be later than December 31, 2022. The parties shall mutually agree to any Delivery Term Start Date that is more than sixty (60) days in advance of the Guarantee Commercial Operation Date.)</i></p>
<b>Delivery Term:</b>	<p>[___] Contract Years from the Delivery Term Start Date, with each 12 month period following the Delivery Term Start Date considered a “Contract Year.”</p>
<b>Project Interconnection Point</b>	<p>The Project shall interconnect to [_____]. SELLER shall be responsible for all costs of interconnecting the Project to the Interconnection Point.</p>
<b>Delivery Point:</b>	<p>The Delivered Energy shall be to:</p> <p>(1) Project Point of Delivery at the CAISO grid (i.e., Pnode), or</p>

	<p>(2) a Default Load Aggregation Point or Hub (preferably, PG&amp;E DLAP). MBCP &amp; SVCE will consider delivery at other DLAPs and Hubs in CAISO (SDG&amp;E DLAP, SCE DLAP, NP-15, SP-15, and ZP-26). SELLER shall be responsible for all costs necessary to deliver energy to the Delivery Point.</p> <p><i>(Note: MBCP &amp; SVCE are requesting pricing for both Delivery Points in this RFP)</i></p>
<b>CAISO Market</b>	Day-Ahead
<b>Site Control</b>	Seller shall maintain site control throughout the Delivery Term.
<b>Permits and Approvals</b>	Seller shall obtain any and all permits and approvals, including without limitation, environmental clearance under the California Environmental Quality Act (“CEQA”) or other environmental law, from the local jurisdiction where the Project is or will be constructed. Buyer is simply purchasing power and does not intend to be the lead agency for the Project.
<b>Commercial Operation Date (“COD”):</b>	<p>The COD shall be the date when all of the following requirements have been met to Buyer’s reasonable satisfaction including Seller providing a certificate from an independent engineer to Buyer with respect to subparts (i), (iii), (iv) and (v):</p> <ul style="list-style-type: none"> <li>(i) Facility has met all Interconnection Agreement requirements and is capable of delivering energy from the Facility to the grid;</li> <li>(ii) Seller has provided Buyer with a copy of written notice from the CAISO that the Facility has achieved Full Capacity Deliverability Status (as defined in the CAISO tariff), if applicable;</li> <li>(iii) Commissioning of equipment has been completed in accordance with the manufacturer’s specification;</li> <li>(iv) 100% of Installed Capacity has been installed and commissioned;</li> <li>(v) Facility has successfully completed all testing required by prudent utility practices or any requirement of law to operate the Facility;</li> <li>(vi) All applicable permits and government approvals required for the operation of the Facility have been obtained;</li> <li>(vii) Seller has obtained all real property rights;</li> <li>(viii) Security requirements for the Delivery Term have been met; and</li> <li>(ix) Insurance requirements for the Facility have been met, with evidence provided in writing to Buyer.</li> </ul> <p>Seller shall provide notice of expected COD to Buyers in writing no less than sixty (60) days in advance of such date. Seller shall notify Buyers in writing when Seller believes that it has provided the required documentation to Buyer and met the conditions for achieving COD. Buyers shall have [5] Business Days to approve or reject Seller’s request for COD. Upon Buyers’ approval of Seller’s achievement of COD, Buyers shall provide Seller with written acknowledgement of the COD.</p>
<b>Guaranteed COD</b>	<p>The Guaranteed COD shall be [_____, 20__].</p> <p>The Guaranteed COD shall be extended on a day-for-day basis due to Force Majeure or delay caused by transmission provider (e.g., the CAISO), transmission owner, or Buyers. Such day-for-day extensions of</p>

	<p>the Guaranteed COD shall be no longer than 180 days on a cumulative basis.</p> <p>If the Seller does not achieve COD of the Facility by the Guaranteed COD, Seller shall pay Delay Damages to the Buyers.</p> <p>The “Delay Damages” shall be equal to the Development Security divided by 60 days and shall be paid in advance on a monthly basis by Seller to Buyers. A prorated amount will be returned to Seller if COD is achieved during the month for which Delay Damages were paid in advance.</p> <p>Failure to achieve COD within [60] days of the Guaranteed COD shall constitute an Event of Default, and Buyers shall have the right, in its sole discretion, to terminate the PPA and pursue all remedies at law or equity.</p>
<b>Project Development Milestones</b>	<ul style="list-style-type: none"> <li>• [date] – receive CEC pre-certification</li> <li>• [date] – execute Interconnection Agreement</li> <li>• [date] – procure major equipment</li> <li>• [date] – obtain federal and state discretionary permits</li> <li>• [date] – construction start date</li> <li>• [date] – guaranteed construction start date</li> <li>• [date] – obtain full capacity deliverability status</li> <li>• [date] – commercial operation date</li> <li>• [date] – guaranteed commercial operation date</li> </ul> <p>The Execution of the Interconnection Agreement and the Guaranteed Construction Start Date are the “Major Project Development Milestones.”</p> <p>In the event that Seller misses either or both of the Major Project Development Milestones, Seller shall accrue delay damages, (the “Development Delay Damages”), in the amount of the Development Security divided by 120 days for each missed Major Project Development Milestone. In the event that Seller achieves COD on or before the Guaranteed Commercial Operation Date, Buyers agrees to waive all accrued Development Delay Damages. In the event that Seller fails to achieve COD on or before the Guaranteed Commercial Operation Date, Buyers shall be entitled to collect all accrued Development Delay Damages on the date designated as the Guaranteed Commercial Operation Date.</p>
<b>PPA Price:</b>	<p>The PPA Price shall be \$[___]/MWh of Delivered Energy with no an annual escalator or de-escalator.</p> <p>Prior to COD, Buyers will purchase the Product at 75% of the PPA Price.</p>
<b>Expected Contract Quantity</b>	<p>[_____] MWh during the first year of commercial operation with [%] reduction in Contract Quantity for each year thereafter during the Delivery Term.</p>
<b>Scheduling Requirements and CAISO Settlements:</b>	<p>Buyers or Buyers’ agent shall act as Scheduling Coordinator (as defined by the CAISO), or “SC,” for the Facility. Buyers shall be financially responsible for such services and shall pay for all CAISO charges and retain all CAISO payments; provided however, that notwithstanding the foregoing, Seller shall assume all liability and reimburse Buyer for any and all costs or charges (i) incurred by Buyers because of Seller’s failure to</p>

	<p>perform, (ii) incurred by Buyers because of any outages for which notice has not been provided as required, (iii) associated with Resource Adequacy Capacity (as defined by the CAISO) from the Facility (including Non-Availability Charges (as defined by the CAISO)), if applicable or (iv) to the extent arising as a result of Seller's failure to comply with a timely Buyers Curtailment Order if such failure results in incremental costs to Buyers.</p> <p>Seller shall provide to Buyers non-binding annual, monthly and day-ahead forecasts of Delivered Energy within a timeline that allows Buyers or Buyers' agent the ability to meet the CAISO day-ahead scheduling protocols and deadlines. Outage and curtailment notifications will be required by Buyers as well as access to Facility generation data.</p> <p><i>(Note: Buyers will be responsible for the SC role where Buyers' Output Share is 100%. If Buyers' Output Share is less than 100%, then Seller will be responsible for performing the SC role and should describe its experience with providing or obtaining SC services in its RFP Response. As described in the Additional Services Proposals section of the RFP, there are also certain commercial structures whereby it is optimal for the Seller to be the SC for the Facility. Bidder shall describe the value of such arrangement in its RFP Response if proposing such a structure).</i></p>
<p><b>Monthly Settlement and Invoice</b></p>	<p>Within ten (10) days after the end of each month of the Delivery Term, Seller shall send a detailed invoice to Buyers for the amount due for Product delivered during such month. The invoice shall include all information necessary to confirm the amount due.</p> <p>Payment for undisputed amounts shall be due to the applicable party thirty (30) days from the invoice date, with disputed payments subject to Buyers' billing dispute process.</p> <p>A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section ## within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve</p>



	(12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.
<b>Output Guarantee</b>	<p>The Seller guarantees that during the Delivery Term, energy deliveries for each Performance Measurement Period, shall meet or exceed the Guaranteed Output Threshold.</p> <p>The “Guaranteed Output Threshold” shall be equal to the following listed percentages of the Annual Expected Output, based on technology type:</p> <ul style="list-style-type: none"> <li>• Solar: 170%</li> <li>• Wind: 150%</li> <li>• Geothermal: 90%</li> <li>• Small Hydro: 170%</li> </ul> <p>The “Performance Measurement Period” shall be each two-year rolling period, commencing on the Contract Start Date for solar, wind, small hydro and all other intermittent technologies. For geothermal, the “Performance Measurement Period” shall be each one year rolling period, commencing on the Contract Start Date.</p> <p>The “Annual Expected Output” is equal to Buyer’s Output Share of the Facility’s P50 expected annual output.</p> <p>After each Performance Measurement Period, Seller shall calculate its performance for the Output Guarantee and provide sufficient detail to Buyer. For purposes of calculating the energy deliveries for the Output Guarantee, Seller shall add Delivered Energy and energy that was not delivered during Excused Hours. “Excused Hours” means hours where the Facility was not available due to Force Majeure, transmission provider’s (e.g., the CAISO’s), transmission owner’s, or Buyers’ failure to perform.</p>
<b>Output Guarantee Shortfall Damages</b>	<p>In the event that the Guaranteed Output Threshold is not met for a Performance Measurement Period, (i) Seller shall calculate the “Shortfall Energy,” which shall be equal to the Guaranteed Output Threshold less the Delivered Energy less the energy not delivered during Excused Hours, and (ii) Seller shall pay Shortfall Damages.</p> <p>“Shortfall Damages” shall be determined by multiplying (x) Shortfall Energy, by (y) the positive difference, if any, of the Replacement Price less the PPA Price. The “Replacement Price” shall be the total price at which the Buyers would have to pay to purchase energy, RECs and capacity to replace the Shortfall Energy.</p>
<b>Performance Guarantee</b>	<p>Buyers may terminate the PPA if the Project fails to deliver either (a) at least 65% of the Contract Quantity in a single Contract Year or (b) at least 75% of the Contract Quantity for two consecutive Contract Years. In the event of such termination, Seller shall be liable to Buyer for a Termination Payment.</p>
<b>Excess Energy</b>	<p>If during any settlement interval, the Delivered Energy is greater than the Buyers’ Output Share of the Contract Capacity (“Excess Energy”), then the price paid by Buyers for the Excess Energy shall be Zero dollars (\$0). If the real-time locational marginal price (as defined by the CAISO) at the Delivery Point (“Delivery Point LMP”) is negative for a settlement interval with Excess Energy, Seller shall pay Buyers an amount equal to the</p>

	product of (i) the absolute value of the Delivery Point LMP, and (ii) Excess Energy.
<b>Annual Excess Energy</b>	If during any Contract Year, the sum of the Delivered Energy and Deemed Generated Energy is in excess of 115% of the Annual Expected Output, then for each MWh of Delivered Energy or Deemed Generated Energy in excess of such threshold (“Annual Excess Energy”), the applicable price paid by Buyers shall be equal to the lesser of (a) the Delivery Point LMP applicable to the interval in which such Annual Excess Energy was delivered or deemed generated, as applicable, or (b) 75% of the PPA Price.
<b>Curtailment Rights</b>	<p>In the event the Facility is curtailed due to an Emergency (as to be defined in the interconnection agreement), Force Majeure, by the CAISO or the transmission owner, or for any reason other than Buyers’ sole action or inaction, Seller shall not be liable for failure to deliver such curtailed energy and Buyers shall not be obligated to pay for such curtailed energy.</p> <p>Notwithstanding the foregoing, Buyers may curtail deliveries of energy at any time and for any duration (“Buyer-Directed Curtailment”). Buyers shall have no obligation to pay Seller for up to [fifty (50) x MW] hours of Buyer-Directed Curtailment per contract year. For any Buyer-Directed Curtailment in excess of [fifty (50) x MW] hours per Contract Year, Buyers shall pay Seller for such energy at the PPA Price, except as set forth in the Annual Excess Energy provision. All energy not generated in excess of [fifty (50) x MW] hours per Contract Year shall be defined as “Deemed Generated Energy.”</p>
<b>Operations and Maintenance</b>	Seller shall not during the months of June through September inclusive schedule any non-emergency maintenance that reduces the Energy generation capability of the Facility by more than ten percent (10%), unless (i) such outage is required to avoid damage to the Facility, (ii) such maintenance is necessary to maintain equipment warranties and cannot be scheduled outside the months of June through September, (iii) such outage is required in accordance with prudent electrical practices, or (iv) the Parties agree otherwise in writing.
<b>REC Tracking System</b>	<p>The Seller shall transfer RECs associated with the Buyers’ Output Share of the generation from the Facility for each month via WREGIS pursuant to the timelines in WREGIS Operating Rules.</p> <p>Each party shall be responsible for setting up an account with WREGIS.</p>
<b>Progress Reporting</b>	<p>After execution of the PPA, Seller shall provide a monthly report to Buyers that (a) describes the progress towards meeting the Project Development Milestones; (b) identifies any missed Project Development Milestones, including the cause of the delay; and (c) provides a detailed description of Seller’s corrective actions to achieve the missed Project Development Milestones and all subsequent Project Development Milestones by the Guaranteed Commercial Operation Date. Progress reporting shall also include reporting on small business activities pursuant to the Small Business section of the RFP.</p> <p>In the event Seller misses any Project Development Milestones and cannot reasonably demonstrate a plan for completing the Facility by the Guaranteed COD, Buyers shall have the right to terminate the PPA and retain the Development Security as damages, in addition to any other remedies it may have at law or equity.</p>

<b>Credit Requirements</b>	<p>The Seller shall post security as follows:</p> <p><u>Development Security – As Available</u></p> <ul style="list-style-type: none"> <li>• \$60,000 per MW of Buyers’ Contract Capacity for the period between PPA Effective Date and COD</li> </ul> <p><u>Development Security – Dispatchable - includes As Available systems plus storage</u></p> <ul style="list-style-type: none"> <li>• \$90,000 per MW of Buyers’ Contract Capacity for the period between PPA Effective Date and COD</li> </ul> <p><u>Delivery Term Security – As Available</u></p> <ul style="list-style-type: none"> <li>• \$75,000 per MW of Buyers’ Contract Capacity for the period following COD</li> </ul> <p><u>Delivery Term Security – Dispatchable - includes As Available systems with storage</u></p> <ul style="list-style-type: none"> <li>• \$105,000 per MW of Buyers’ Contract Capacity for the period following COD</li> </ul> <p>The form of security shall be a letter of credit or cash escrow.</p> <p>Within five (5) Business Days following any draw by Buyers on the Development Security or the Delivery Term Security, Seller shall replenish the amount drawn such that the security is restored to the applicable amount.</p>
<b>Prevailing Wage</b>	<p>Seller shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation employment discrimination laws and prevailing wage laws.</p>
<b>RPS Compliance</b>	<p>Seller must ensure the Facility obtains CEC pre-certification prior to the COD, obtains CEC certification within 180 days of COD and maintains such CEC certification during the Delivery Term. Seller shall ensure that the Product qualifies as Portfolio Content Category 1 throughout the Delivery Term. If a change of law occurs after execution of the PPA that impacts Facility’s CEC certification or the Product’s qualification as Portfolio Content Category 1, then Seller shall comply with such change of law as necessary to maintain the Facility CEC certification and Product eligibility described above.</p>
<b>Assignment</b>	<p>Neither party may assign the PPA without prior written consent of the other party.</p> <p>Any direct or indirect change of control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyers in their sole and absolute discretion.</p> <p>Seller shall pay Buyers’ reasonable expenses incurred to provide consents, estoppels, or other required documentation in connection with Seller’s financing for the Facility. Buyers will have no obligation to provide any consent, or enter into any agreement, that materially and adversely affects any of Buyers’ rights, benefits, risks or obligations under the definitive PPA.</p>



<b>Dispute Resolution</b>	<p>In the event of any dispute arising under the PPA, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the authorized members of the Parties' senior management shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days of initiating such discussions, the parties shall submit the dispute to mediation prior to seeking any and all remedies available to it at Law in or equity.</p> <p>The Parties will cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party,</p> <p>If the mediation is unsuccessful, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in the PPA.</p>
<b>Confidentiality</b>	<p>Upon shortlisting, Seller shall execute a Mutual Non-Disclosure Agreement with Buyers.</p>
<b>Exclusivity</b>	<p>Upon shortlisting, Seller shall execute an Exclusive Negotiating Agreement with Buyers.</p>
<b>No Recourse to Members of Buyer</b>	<p><b>No Recourse to Members of Buyers.</b> Buyers are organized as a Joint Powers Authorities in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to their Joint Powers Agreement and are public entities separate from their constituent members. Buyers shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyers' constituent members in connection with this Agreement.</p>
<b>Force Majeure</b>	<p>(a) "<b>Force Majeure Event</b>" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.</p> <p>(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor</p>

	<p>difficulties caused or suffered by a Party or any third party except as set forth below.</p> <p>Notwithstanding the foregoing, the term “<b>Force Majeure Event</b>” does not include (i) economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer’s ability to buy Energy at a lower price, or Seller’s ability to sell Energy at a higher price, than the Contract Price); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Period, except to the extent such Curtailment Period is caused by a Force Majeure Event; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller’s Affiliates, Seller’s contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) Seller’s inability to achieve Construction Start of the Facility following the Guaranteed Construction Start Date or achieve Commercial Operation following the Guaranteed Commercial Operation Date.</p>
<p><b>Other Standard Contract Terms to be included in the PPA:</b></p>	<ul style="list-style-type: none"> <li>• <b>Event of Default:</b> Events of Default shall include, but not be limited to, failure to pay any amounts when due, breach of representations and warranties, failure to perform covenants and material obligations in the PPA, bankruptcy, assignment not permitted by the PPA in addition to a Seller Event of Default if the COD is not achieved within [60] days after the Guaranteed COD. Buyer shall be entitled to termination damages, as well as all remedies available at law and equity.</li> <li>• <b>Indemnification:</b> Consultant agrees, at its sole cost and expense, to indemnify, defend, with counsel reasonably approved by MBCP &amp; SVCE, protect and hold harmless MBCP &amp; SVCE, its officers, directors, employees, agents, attorneys, designated volunteers, successors and assigns, and those MBCP &amp; SVCE agents serving as independent contractors in the role of MBCP &amp; SVCE staff (collectively “Indemnitees”) from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, penalties, judgements, liens and losses of whatever nature that arise, directly or indirectly, in whole or in part, out of or are in any way related to Consultant’s or Subconsultant’s performance or failure to perform the Work under this Agreement, regardless of whether the Consultant or its Subconsultants acted or failed to act intentionally, willfully, recklessly or negligently. Consultant agrees that its indemnity and defense obligations include all costs and expenses, including all attorney fees, expert fees, mediation, arbitration, or court costs in connection with the defense. Consultant further agrees to indemnify, defend, protect and hold harmless Indemnitees from and against any breach of this Agreement and any infringement of patent rights, trade secret, trade name, copyright, trademark, service mark or any other proprietary right of any person(s) caused by MBCP &amp; SVCE’s use</li> </ul>

	<p>of any services, Work Product or other items provided by Consultant or its Subconsultants under this Agreement.</p> <ul style="list-style-type: none"><li>• <u>Governing Law</u>: State of California</li><li>• <u>Venue</u>: Santa Clara or Monterey County</li></ul>
--	---

### TERM SHEET FOR CO-LOCATED ENERGY STORAGE SYSTEM

This is an indicative *additional* Term Sheet (“**Storage Term Sheet**”) that includes the key energy storage commercial terms and conditions that MBCP & SVCE expect to be included in a power purchase agreement (“PPA”) that will be negotiated between selected Bidder(s) and MBCP & SVCE as a result of the MBCP’s & SVCE’s 2019 Joint Request for Proposals (“RFP”), **IF a Bidder has a co-located Energy Storage System that is part of its submission.** It describes the sale from Seller to MBCP & SVCE of energy storage services associated with the output from the Energy Storage System that is part of the Facility. Until a definitive agreement is approved by MBCP & SVCE management and MBCP’s & SVCE’s Boards of Directors, and signed and delivered, no party shall have any legal obligations, expressed or implied, or arising in any other manner, under this Storage Term Sheet. Note that all reference to days refers to calendar days, not business days.

<b>1.</b>	<b>Storage Capacity:</b>	[Total project capacity] megawatts (“MW”)
<b>2.</b>	<b>RA Capacity:</b>	[NQC] MW
<b>3.</b>	<b>Maximum Storage Level:</b>	[number representing greatest amount of energy that may be discharged from the Storage Unit] megawatt-hours (“MWh”)
<b>4.</b>	<b>Minimum Storage Level:</b>	[number representing lowest level to which Storage Unit may be discharged] MWh
<b>5.</b>	<b>Maximum Charging Capacity:</b>	[highest level at which Storage Unit may be charged] MW
<b>6.</b>	<b>Minimum Charging Capacity:</b>	[lowest level at which Storage Unit may be charged] MW
<b>7.</b>	<b>Maximum Discharging Capacity:</b>	[highest level at which Storage Unit may be discharged] MW
<b>8.</b>	<b>Minimum Discharging Capacity:</b>	[lowest level at which Storage Unit may be discharged] MW
<b>9.</b>	<b>Maximum State of Charge (SOC) during Charging:</b>	[highest percentage at which Storage Unit’s SOC can be charged to] %
<b>10.</b>	<b>Minimum State of Charge (SOC) during Discharging:</b>	[lowest percentage at which Storage Unit’s SOC can be discharged to] %
<b>11.</b>	<b>Maximum Round-Trip Efficiency:</b>	[peak efficiency of conversion between charging energy and discharging energy (i.e. ratio of maximum charging energy to maximum discharging energy)] %  If actual round-trip efficiency is greater than or equal to Maximum Round-Trip Efficiency, then for purposes of calculating the Settlement Amount, the actual round-trip efficiency will be deemed to be 100%.
<b>12.</b>	<b>Minimum Round-Trip Efficiency:</b>	[minimum guaranteed efficiency of conversion between charging energy and discharging energy (i.e. ratio of maximum charging energy to maximum discharging energy)] %  If actual round-trip efficiency is less than Minimum Round-Trip Efficiency, then for purposes of calculating the

		Settlement Amount, the actual round-trip efficiency will be deemed to be 0%.
<b>13. Ramp Rate:</b>		[number] MW/minute
<b>14. Monthly Cycles:</b>		[Number of times per month Buyers may fully charge and discharge the Storage Unit. A full charge will be deemed to have occurred when the cumulative amount of energy added to the Storage Unit over the course of a calendar month equals the Maximum Storage Level. This could occur in one continuous charge or over multiple charges, even if some energy is discharged in between. The inverse is true for a full discharge.]
<b>15. Daily Dispatch Limits:</b>		Charging: [maximum number of times per day Buyers may begin charging the Storage Unit from Minimum SOC to Maximum SOC] Discharging: [maximum number of times per day Buyers may begin discharging the Storage Unit from Maximum SOC to Minimum SOC] Partial Charging/Discharging: [maximum number of times per day Buyers may begin charging or discharging the Storage Unit without reaching either the Maximum SOC or Minimum SOC, respectively]
<b>16. Maximum Time at Minimum Storage Level:</b>		[Seller-specified, if applicable]
<b>17. Other Operating Limits:</b>		[Seller-specified, if applicable]
<b>18. Energy Storage Products:</b>		All energy, capacity, resource adequacy, ancillary services, environmental attributes produced by the Storage Unit.
<b>19. Ancillary Services Capability:</b>		[List frequency regulation, spin, regulation up, regulation down, etc., and specify relevant operating parameters for each.]
<b>20. Station Use:</b>		Buyer will not be responsible for Station Use and Station Use will not be provided by the Storage Units. Expected station use in [number] MWh per year.
<b>21. Guaranteed Storage Availability:</b>		[percentage of hours each month that Seller agrees the Storage Units will be available] %
<b>22. Availability Adjustment:</b>		The Availability Adjustment (“AA”), which is calculated as follows: <ul style="list-style-type: none"> <li>(i) If the monthly storage availability is greater than or equal to the Guaranteed Storage Availability, then: AA = 100%</li> <li>(ii) If the monthly storage availability is less than the Guaranteed Storage Availability, but greater than or equal to 70%, then:</li> </ul>



		<p>AA = 100% - [(98% - monthly storage availability) × 2]</p> <p>(iii) If the monthly storage availability is less than 70%, then: AA = 0</p>
23.	<b>Fixed Price:</b>	<p>[\$price]/kW-month of RA Capacity</p> <p>Provide a separate price for a Behind-the-Meter configuration AND for a Front-of-the-meter configuration, if applicable</p>