

INSTRUCTIONS TO BIDDERS

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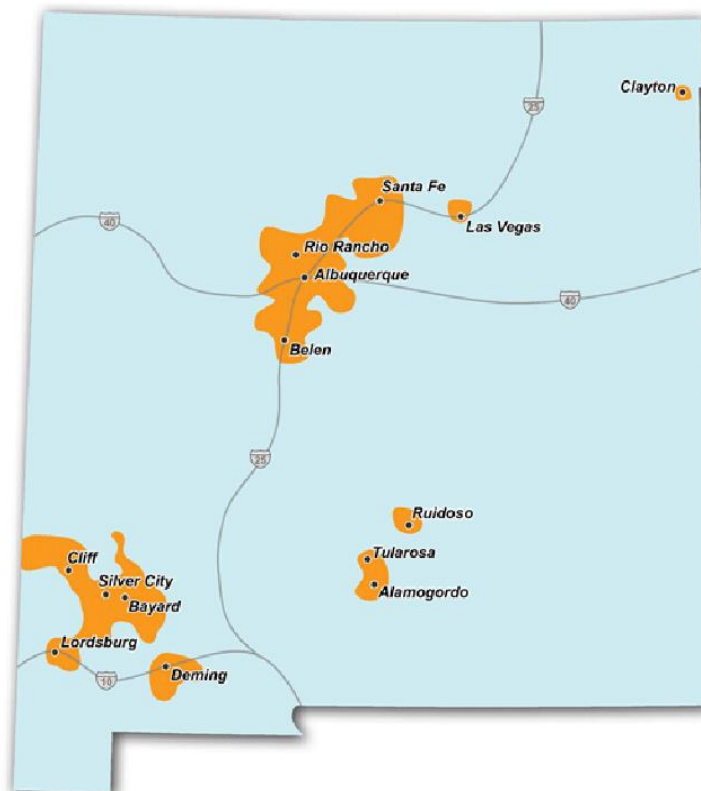
PART 1 – INTRODUCTION

1.1 COMPANY BACKGROUND

Public Service Company of New Mexico (“PNM”) is a wholly owned subsidiary of PNM Resources, Inc. (NYSE: PNM) based in Albuquerque, N.M. PNM is an electric utility that provides generation, transmission, and distribution service. PNM’s retail service territory covers a large area of north central New Mexico, including the cities of Albuquerque, Rio Rancho, and Santa Fe and most of the area around the Rio Grande valley, from Belen to Santa Fe. Other communities served include Lordsburg, Silver City, Deming, Alamogordo, Ruidoso, Tularosa, Clayton, and Las Vegas. PNM also serves several New Mexico Pueblo nations and numerous unincorporated areas. In total, PNM serves about 525,000 electricity customers statewide. As shown in Figure 1, PNM’s electric service territory covers geographically diverse areas. Electric demand and energy usage varies based upon geography, customer mix, and climate.

PNM currently produces nearly 50 percent carbon free energy and has committed to being 100 percent carbon free by 2040, five years ahead of the state’s goal of 2045, as provided in the Renewable Energy Act, NMSA 1978, §§ 62-16-1 to -10 (“REA”). This will involve PNM’s implementation of a combination of energy generation and storage resources over the next 20 years.

Figure 1. PNM’s Electric Service Territory Map



1.2 PURPOSE OF RFP

PNM is progressing with the State of New Mexico's plan to create a sustainable energy future for New Mexico. PNM currently serves retail customers through supply-side resources and demand side management programs reliably, safely, and cost-effectively. Our commitment is to provide reliable power with a cleaner, more sustainable energy resource mix in a cost-effective manner for our customers. PNM is taking significant measures with plans to meet this commitment. We are proud to issue this request for proposals ("RFP") to solicit bids from capable providers to deliver energy and capacity resources in support of this commitment.

This RFP is part of a solicitation process for the purpose of acquiring sufficient reliable, cost-effective resources to meet PNM's forecasted capacity and electric demand, plus reserves, in anticipation of future resource replacement(s). Amongst other considerations, this RFP seeks replacement resources associated with the return of certain Palo Verde leases in January 2023 and January 2024.

Respondents are required to propose resource options that support PNM's transition to a zero carbon energy future by 2040 while fulfilling PNM's obligation to serve its customers with reliable, low cost energy, in an environmentally responsible manner. No resource type or project ownership structure is specifically requested, preferred, or excluded by PNM in response to this RFP. As PNM anticipates future solicitations to satisfy resource needs and to continue to explore opportunity resources, Respondents are encouraged to propose resource options that could potentially offer future capacity expansion and growth.

1.3 RESOURCES SOUGHT THROUGH THIS RFP

PNM is soliciting proposals for capacity and energy resources that facilitate the replacement of a portion of PNM's current portfolio and to support other anticipated resource needs in the near future. Specifically, PNM is targeting the acquisition of 150 MW of accredited capacity for its New Mexico portfolio. The exact quantity of resources selected will be dependent upon resource characteristics and resource modeling including PNM's most recent load and planning forecasts and is subject to New Mexico Public Regulation Commission ("Commission") approval. Parties interested in providing resources that provide the best value to PNM's customers and that are in alignment with PNM's goals of a zero carbon energy future by 2040 are invited to participate in this RFP. Respondents shall propose resources consistent with the requirements outlined in NMSA 1978, Section 62-13-16 and the REA, including but not limited to those that maximize the use of New Mexico work force, employ apprentices for the construction of the facilities, and advance a zero carbon future.

Resources selected under this RFP are targeted for an in-service date prior to June 1, 2023; earlier in-service dates will be considered.

PNM is scheduled to join the CAISO Energy Imbalance Market ("EIM") in April 2021. PNM will factor this future participation into the evaluation and selection process.

1.4 RFP CONTENTS; SOURCING PLATFORM

This RFP includes a description of the request, an outline of the solicitation process, relevant dates, contact information, and proposal submission requirements. All proposals submitted in response to this RFP (each a "Bid" or "Proposal") must be submitted by accessing the RFP event "100-GENALL-2020" listed in PNM Sourcing's public site hosted by Jaggaer as described in Section 7.1 of this RFP.

Respondents to this RFP (each a "Respondent") must follow the instructions provided herein in the preparation and submittal of their Bids.

1.5 RFP PROCESS OVERVIEW

1.5.1 Announcement and Release

The RFP was announced via press release on June 18, 2020. This Instructions to Bidders document is provided as a non-confidential document on the PNM website identified in Section 7.1.1. Interested parties are requested to execute a non-disclosure agreement in order to receive additional Bid Documents. Only interested parties that execute the non-disclosure agreement will receive these additional Bid Documents.

1.5.2 Proposal Development and Evaluation

The Proposal development cycle ("Proposal Development Cycle") is the time from when the RFP is released until Proposals are due; the Proposal Development Cycle is approximately thirteen (13) weeks. While assembling Proposals, Respondents are allowed to ask questions in accordance with the communications protocols in Section 7.1.2, visit sites, and participate in pre-bid conferences.

Upon receipt of Proposals, evaluation will begin immediately and progress in phases. The evaluation of Proposals is more fully discussed in Section 8.

1.5.3 Regulatory Compliance

This RFP is conducted in compliance with New Mexico statutory and regulatory supply resource procurement requirements and guidelines, including compliance with NMSA 1978, Section 62-13-16 and the REA.

Additional regulatory considerations are discussed throughout this RFP.

1.5.4 Role of RFP Administration Team

PNM and its RFP consultants including Aion Energy LLC for RFP administration support and other consultants for portfolio system modeling (together, the "RFP Administration Team") will be responsible for administration and overall management of the RFP process including initial release by PNM's Supply Chain Sourcing Team, supporting the Proposal Development Cycle and supporting the evaluation of Proposals. The RFP Administration Team will be responsible for bid clarifications, Phase 1 through Phase 3 bid evaluation activities including modeling, short-list selection, and contract negotiations for all Proposals. The RFP Administration Team will not be involved in the definition or establishment of EPC technical bid requirements or associated existing site conditions. PNM's Supply Chain Sourcing Team, via the RFP event "100-GENALL-2020," will be the main point of contact for Respondents during the RFP process and all correspondence must be directed through the RFP event unless otherwise directed.

1.5.5 Role of EPC Proposal Facilitator

Throughout the RFP process, technical communications and coordination with Respondents submitting EPC Proposals ("EPC Respondents") will be managed separately from the RFP Administration Team. PNM has assigned a representative from PNM's Generation Engineering team to coordinate with and respond to Respondents offering EPC Proposals ("EPC Proposal Facilitator"). The EPC Proposal Facilitator and their consultant, HDR Engineering, Inc. (together, the "EPC Support Team") will be responsible for providing all existing site technical information, resolving EPC technical bid clarifications, technical review of EPC Bids, and support of the bid evaluation process. The EPC Support Team will not be involved in or be aware of any non-EPC Bids received in response to the RFP process. As with the RFP Administration Team, PNM's Supply Chain Sourcing Team, via PNM Sourcing's public site will be the main point of contact for EPC Respondents during the RFP process and all correspondence must be directed through the RFP event "100-GENALL-2020" and shall

be clearly identified as “For EPC Bid” in the title of the communications unless otherwise directed.

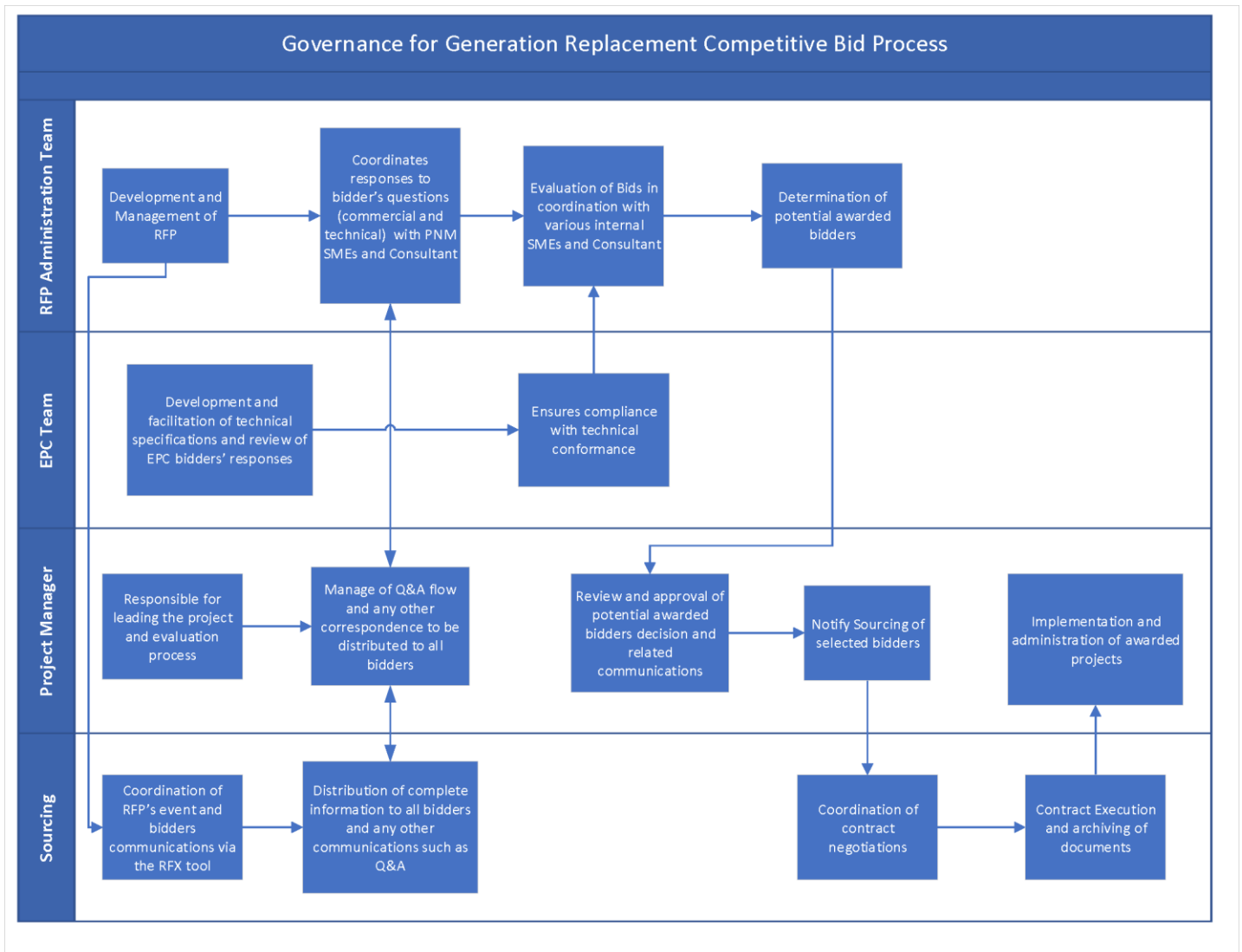
1.5.6 Role of PNM Staff

PNM has subject matter experts (“SMEs”) in resource planning, electric transmission planning, natural gas fuel supply planning, portfolio modeling, environmental, and other functions who will be engaged throughout the process.

PNM SMEs will provide input to the RFP Administration Team and the EPC Support Team to support the Proposal Development Cycle and Proposal evaluation throughout the RFP Process.

1.5.7 RFP Process Governance Overview

The following diagram provides a high-level overview of the responsibilities of the RFP team members and the associated progression of the RFP process.



PART 2 - RESOURCE NEEDS ASSESSMENT

2.1 REPLACEMENT RESOURCES

The objective of this RFP is to solicit competitive Proposals from all forms of capacity, energy, and storage resources for the procurement of resources that can best satisfy PNM's system needs for capacity, energy, and reliability requirements.

PNM requires that, in conjunction with the existing resource portfolio, selected resources must be capable of meeting capacity requirements and maintaining necessary system reliability requirements on a portfolio basis. In order to achieve this objective, Proposals will be evaluated in conjunction with PNM's existing and planned resources using both hourly and intra-hour software modeling tools.

2.2 LONG-TERM PORTFOLIO NEEDS

This RFP is part of PNM's continued effort to address its long-term portfolio needs via the implementation of varying generation and/or storage technologies. Resources with the flexibility to be used in multiple applications, including but not limited to providing capacity for peak-usage times, economic dispatch in real-time markets, intra-hour balancing, and contingency reserves are anticipated to demonstrate higher values in PNM modeling. Additionally, PNM anticipates a higher value for resources that will help integrate and firm its increasing portfolio of variable energy resources ("VERs").

PART 3 – COMPLIANCE WITH LAW

PNM will evaluate all resources that meet applicable local, state and federal rules and regulations. PNM's selection of resources will specifically consider the ability of those resources to allow PNM to comply with the provisions of NMSA 1978, Section 62-13-16 and the REA in a reliable and cost-effective manner. Amongst other requirements identified herein, selection of resources from this RFP will consider the following.

3.1 RENEWABLE PORTFOLIO STANDARD

The Commission adopted Rule 17.9.572 NMAC ("Rule 572") to carry out the renewable portfolio standard ("RPS") established in the REA. The REA sets an increasing RPS requirement that 20% of retail sales be served by renewable energy beginning 2020, and increasing to 40% in 2025, 50% in 2030 and 80% in 2040. These requirements are subject to adjustments for voluntary program sales and new procurements are subject to cost impact protections.

3.2 HIRING OF APPRENTICES

Although not required for RFPs issued prior to July 1, 2020, PNM will comply with NMSA 1978, Section 62-13-16 regarding the requirement that, subject to the availability of qualified applicants, the construction of facilities that generate electricity for New Mexico retail customers shall employ apprentices from an apprenticeship program during the construction phase of the project. PNM is requesting compliance with this requirement at a minimum level of ten percent for projects for which on-site construction commences beginning prior to January 1, 2024. Any apprenticeship program relied upon for sourcing the apprentices shall be registered pursuant to the Apprenticeship Assistance Act. Respondents shall identify the extent to which they advertised or investigated the availability of qualified apprentices and the extent to which they shall be employed in Attachment J or EPC Attachment G, as applicable.

3.3 PREFERENCE FOR NEW MEXICO WORKERS

PNM promotes and encourages the use of workers residing in New Mexico to the greatest extent practicable and PNM will take the use of New Mexico workers into consideration in evaluating Proposals. Respondents shall identify the extent to which they anticipate use of New Mexico workers, shall submit with their Bid the percentage of New Mexico workers anticipated to be used, and shall identify what assurances are being provided to maximize this percentage during the actual construction period. Respondents shall identify the extent to which they advertised or investigated the availability of qualified local labor resources and services as well as the extent to which they shall be applied to the proposed project in Attachment J or EPC Attachment G, as applicable.

3.4 EXECUTIVE ORDER ON SECURING THE U.S. BULK-POWER SYSTEM

PNM will require that any project selected from this RFP process comply with the Presidential Executive Order on Securing the United States Bulk-Power System ("Order") issued on May 1, 2020. Respondents shall identify their approach to complying with the Order and avoiding sourcing of equipment and devices designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries. Specifically, Respondents shall provide the expected equipment supplier(s) and place(s) of origin for all bulk-power system electric equipment as defined in the Order. Additionally, Respondents shall address their methodology for evaluating the full supply chain for components of such equipment and devices. Such information will be reviewed as part of the bid evaluation process after the rules and regulations are more fully developed and issued pursuant to the Order.

PART 4 - ELIGIBLE PROPOSALS

4.1 TYPES OF ELIGIBLE PROPOSALS

The following types of Proposals are eligible for consideration under this RFP:

- Proposals to sell energy, capacity, and/or ancillary services, under a power purchase agreement ("PPA") or under an energy storage agreement ("ESA") with or without an option to purchase the facility. PPA and ESA Proposals must utilize facilities located on a site controlled by the Respondent;
- Proposals to sell all or a portion of a generating asset under an asset purchase agreement ("APA") with rights to all capacity, energy, renewable energy certificates ("RECs"), and all other physical, financial, environmental, or other attributes associated with the asset;
- Proposals for build-transfer ("BT") projects on the Respondent's site. The site, the facility, all other improvements, and all environmental and other attributes of the project would be transferred to PNM upon completion;
- Proposals for engineering, procurement, and construction ("EPC") contracts on a site controlled by PNM, as described in Section 6.4; and
- Proposals for demand-side management ("DSM") products sourced from PNM retail customer load as long as the offering meets the dispatchability, savings and other requirements identified herein.

PART 5 - RESOURCE CHARACTERISTICS

5.1 REQUIREMENTS APPLICABLE TO ALL RESOURCES

The following requirements are applicable to all resource types:

- Technologies proposed must be commercially available and commercially operating at the size and scale proposed;
- It is preferred that Proposals utilize the latest version of the selected technology available at the time of bid, however, grey market equipment will be considered if provided with warranties and guarantees equivalent to those provided by the Original Equipment Manufacturer ("OEM");
- All geographical locations proposed for projects will be considered provided the necessary transmission system improvement costs are accounted for to ensure resources can deliver to PNM load within WECC Path 48 and evidence is provided that such transmission can be built and operational to support the proposed date of commercial operation/start-of-delivery; and
- Proposals involving a combination of resources will be evaluated considering the combined benefits of all resources proposed.

5.2 RENEWABLE RESOURCES

5.2.1 Wind & Solar Resources

PNM will evaluate new wind and solar resource Proposals with respect to their capabilities for operational flexibility and system reliability capability such as Automatic Generation Control ("AGC"), Fast Frequency Response ("FFR"), curtailment optionality, capacity firming optionality, or other reliability technologies and tools. Wind and solar resources with these operational/reliability advantages assist in meeting the reliability requirements of the PNM system. Those advantages may offset pricing differentials between Bids. PNM will also examine any contract limitations or pricing penalties in PPA Proposals associated with operational flexibility, minimum take obligations or maintenance outage scheduling.

5.2.2 Early Introduction of Renewables Encouraged

PNM encourages Respondents to submit Proposals for renewable projects that can make full use of the renewable energy credits as may be appropriate. Therefore, projects able to deliver prior to the June 2023 requested in-service date are encouraged and will be evaluated by PNM through modeling for benefits to PNM customers.

5.2.3 WREGIS Registration and Certification

For all renewable Proposals, the generating facility must be registered or will have to be registered in the Western Renewable Energy Generation Information System ("WREGIS") and its monthly generation reported to WREGIS, with RECs certified by WREGIS and transferable via WREGIS. All costs and fees associated with WREGIS registration and certification will be borne by the Respondent.

5.3 ENERGY STORAGE RESOURCES

Energy storage technologies play an important role in managing carbon-free resource integration including but not limited to offering flexibility and short lead times for construction as well as the abilities to provide ancillary services, manage curtailment, and provide fast response times. These resources improve the ability of PNM's system to incorporate and manage increased VER technologies.

All Energy Storage system Proposals will be evaluated considering the requirements of NMSA 1978, Section 62-9-1 as applicable to the project:

- Reduce costs to ratepayers by avoiding or deferring the need for investment in new generation and for upgrade to systems for the transmission and distribution of energy;
- Reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services;
- Assist with ensuring grid reliability, including transmission and distribution system stability, while integrating VERs into the grid;
- Support diversification of energy resources and enhance grid security;
- Reduce greenhouse gases and other air pollutants resulting from power generation;
- Provide the public utility with the discretion, subject to applicable laws and rules to operate, maintain, and control energy storage systems to ensure reliable and efficient service to customers; and
- Serve as the most cost-effective resource among feasible alternatives.

Projects involving energy storage shall be required to comply with the following requirements:

- Be fully dispatchable by PNM, including within-hour dispatch changes;
- Be capable of nominally 365 annual equivalent full charge and discharge cycles but with the ability to meet varying annual cycling requirements over the resource life as a function of changes in storage use case and/or variation in the needs of PNM's BAA (proposed pricing structure must allow for variability in annual and total cycle quantities and provide a clear definition of a "cycle");
- Be dispatchable across the entire operating range. Resources that are dispatchable from zero (or nearly zero) to full output add additional benefit in meeting a loss of load expectation ("LOLE") requirement of ≤ 0.2 . Resources that have a minimum output greater than zero will be considered as long as they meet the dispatchability requirements across their operating ranges;
- Have the control systems in place with the ability to respond to dispatch signals that originate remotely from PNM operations centers;
- As noted in Section 8.2.2.2 of this RFP for all technologies, commercial viability, maintainability, and maturity of technology proposed at the scale quoted will be considered in the Non-Price Evaluation;
- If combined with a renewable resource and obtaining federal tax credits, be capable of charging and discharging directly to the grid after recovery of the tax credits;
- Include firm pricing for a maintenance agreement to maintain the energy storage capacity (MW and MWh) of the system for the duration of the term quoted or for 20 years for an EPC proposal; and
- Have a minimum rate of charge equivalent to its rate of discharge.

5.4 NATURAL GAS FLEXIBLE RESOURCES

Flexible combustion turbine technologies (aero-derivatives) and reciprocating engines offer the ability to provide fast start times, flexible dispatch, economic ancillary services support and short lead times for construction. These resources improve the ability of PNM's system to incorporate and manage increased VER technologies.

Requirements associated with flexible natural gas resources are included below:

- Be fully dispatchable by PNM, including within-hour dispatch changes;

- Be dispatchable across the entire operating range. Resources that are dispatchable from zero (or nearly zero) to full output add additional benefit in meeting the LOLE ≤ 0.2 . Resources that have a minimum output greater than zero will be considered as long as they meet the dispatchability requirements across their operating ranges;
- Have the control systems in place with the ability to respond to dispatch signals that originate remotely;
- Reciprocating engines - minimum load capability of no more than 25 percent of the unit rated full load capacity;
- Other natural gas technologies - minimum load capability of no more than 40 percent of the unit rated full load capacity;
- Be capable of achieving full output from a cold start in 10 minutes or less (faster start is preferred);
- Be capable of 1,500 starts per year and up to 8,760 hours of annual operation. Proposal and operations and maintenance ("O&M") costs will be based upon an assumed dispatch of 400 starts and 2,500 hours of operation per year;
- Reciprocating engines - minimum down time requirement of less than five (5) minutes after a unit shut down and a minimum up-time requirement of less than five (5) minutes after a unit start;
- Have the ability, including any air permit restrictions, to execute multiple starts and cycle from offline to full output at least five (5) times per day;
- Have a minimum ramp rate of 20% of rated unit capacity per minute both for increasing and decreasing load after initial unit startup and load stabilization, but if this is not achievable, Respondents should indicate the achievable range of ramp rates per generator; and
- PNM, as a Balancing Authority ("BA"), requires a minimum frequency response capability consistent with NERC Standard BAL-003-1 to maintain interconnection frequency within predefined boundaries. PNM requires that Respondents provide actual frequency response via operating governors. This would require that PNM receive the allocated share of frequency response from the proposed unit(s), based on generation capacities.

5.5 OTHER RESOURCES

Resources other than those identified in Sections 5.2 through 5.4, including, but not limited to those such as heavy frame combustion turbine, combined cycle, and solid-fueled resources shall be required to meet the following requirements:

- Be fully dispatchable by PNM, including within-hour dispatch changes;
- Be dispatchable across the entire operating range. Resources that have a lower minimum output provide additional benefit in meeting the requirement for LOLE ≤ 0.2 ;
- Have the control systems in place with the ability to respond to dispatch signals that originate remotely;
- PNM, as a BA, requires a minimum frequency response capability consistent with NERC Standard BAL-003-1 to maintain interconnection frequency within predefined boundaries. PNM requires that Respondents provide actual frequency response via operating governors. This would require that PNM receive the allocated share of frequency response from the proposed unit(s), based on generation capacities; and
- Respondents shall identify the following Proposal characteristics in the Bid Forms defined in Section 6.18.2:
 - Minimum load capability;

- Quantity of allowable starts and hours of operation per year;
- Minimum down time after a unit shut down;
- Minimum run time after a unit start;
- Allowable quantity of starts per day; and
- Minimum ramp rate per minute both increasing and decreasing load.

5.6 DEMAND-SIDE MANAGEMENT PROPOSALS

PNM will evaluate Proposals for DSM capacity and energy products as part of this RFP.

PNM is interested in evaluating the following types of DSM capacity or energy products and applications that can deliver services to retail load within PNM's BAA.

- Load reduction from individual customers;
- Load reduction from multiple entities i.e. aggregation; and
- General program management associated with any of the above.

The proposed structure, availability, pricing, and commercial terms for such DSM products shall be clearly detailed in the body of the Respondent's Proposal.

Delivery of services to PNM's BAA will be considered as a PPA if services are deliverable to customers – DSM services must be deliverable to retail customer load as further described in Section 6.

PART 6 – PROPOSAL CONTENT REQUIREMENTS AND SUBMISSION PROCEDURE

6.1 GENERAL

All Proposals must satisfy eligibility requirements set forth in the RFP and be submitted in accordance with the instructions of this RFP to be considered for evaluation.

6.2 "BID DOCUMENTS"

As used in this RFP, "Bid Documents" include all documents comprising this RFP, including but not limited to all design documents, technical specifications, and other appended or related data, all as may be amended or supplemented from time-to-time. The Bid Documents are complementary, and the Respondent must consider anything specified by one and not by the others as binding as though specified by all. In the case of a conflict between the various specification sections and/or the drawings and any supplemental information, the more strict interpretation as determined by PNM will govern.

6.3 REQUIREMENTS APPLICABLE TO ALL PROPOSALS

The following requirements apply to all Proposals. Additional requirements applicable to Proposals for specific project types are included in subsequent sections of this Part 6.

- Due to the potential complexity associated with the implementation of multiple projects at multiple project sites, at its discretion, PNM will consider staging / sequencing the projects from this RFP process. As such, within the date range of January 1, 2023 to June 1, 2023, Respondents are requested to identify the earliest achievable in-service date for the project(s) offered.
- Proposals and pricing must be provided for a planned project in-service date of no later than June 1, 2023.
- Proposals and pricing must remain valid and binding through at least June 30th, 2022, with the date of expiration explicitly stated in the Proposal. PNM may

choose to refresh Proposals and pricing at any time during the Proposal evaluation period.

- All prices in the Proposal and pricing forms must be quoted in nominal U.S. dollars in the year to be incurred.
- Proposals must provide for firm price for the delivery of energy to PNM's load within WECC Path 48.
- Proposals must include all applicable taxes (i.e New Mexico Gross Receipts Tax), licenses, fees, etc. Respondent must provide a clear description and break-out of these taxes, licenses, fees, etc. in the Proposal.
- Proposals involving carbon-emitting technologies must include optionality for carbon-free operation beyond December 31, 2039 or may otherwise be evaluated considering a 17 year useful life.
- Proposals must include all costs of shipping and related expenses associated with the Respondent's work scope.
- Proposals must identify assumed insurances and levels.
- Proposals must comply with all applicable federal, state and local laws.
- Proposals that culminate in a successful project are required to obtain appropriate registration for all applicable NERC functions and must operate equipment within applicable NERC Standards.
- Proposals must clearly identify the environmental characteristics of the project including emissions rates, quantities of disturbed land (public, private, native, or otherwise protected), forecast wildlife impacts, geological and archeological impacts, and other environmental-related factors.
- Proposals for resources on the Respondent's site must identify all costs including electrical interconnection costs. Respondent's Proposal must include firm, not to exceed capital costs with a break-out for electrical interconnection costs. Detailed cost and scope information for the interconnection and power delivery system upgrades must be included in Attachment F – Electrical Interconnection – Power Delivery of the non-EPC Proposal Forms with additional information included, as required, in the Proposal supplemental information. Respondents offering PPA, ESA, BT, or APA offers will be responsible for all transmission arrangements and costs to deliver to PNM's load and will assume that PNM has no available long-term, firm transmission rights that may be re-directed or used for this project. Bidders shall provide verified interconnection and transmission costs developed through FERC transmission interconnection request processes or through an equivalent independent study.
- Proposals must identify the extent to which the Project will implement the use of workers residing in New Mexico and apprentices from an apprenticeship program.
- In accordance with Section 6.17 regarding Compliance with Law, if New Mexico law requires a contractor's license to construct the Project, Respondent must have such license at the time it submits its Proposal, and such license must be issued explicitly in the name of the Respondent. Proposals not conforming with this requirement will not be further considered.

6.4 ADDITIONAL REQUIREMENTS FOR EPC PROPOSALS

Respondents offering EPC Bids and either (i) registering for EPC Site Visits by the EPC Site Visit Registration Deadline identified in Section 7.2 below or (ii) otherwise requesting EPC site data will be granted access to data regarding site characteristics for PNM controlled sites. EPC Respondents are encouraged to provide Proposals at these sites for any resource type as long as the resource capacity and type can feasibly be implemented at the associated site. EPC Respondents shall assume that natural gas interconnection and delivery to the project site, electrical interconnection, and other required utilities will be provided by PNM at its cost. Respondents must clearly state natural gas, electrical interconnection, and other utility requirements in their Proposal.

EPC Bid information including site infrastructure information, site electrical and fuel interconnection capabilities, and additional technical clarifications will be provided by the EPC Support Team. All EPC Respondent communications prior to Bid Submittal shall be submitted to the PNM Sourcing's public site and shall be clearly identified as "For EPC Bid" in the title of the communications. All such communications will then be directed to the EPC Proposal Facilitator for details and inquiries regarding available sites and technical requirements.

Proposals received from EPC Respondents will be evaluated on equal footing with other Proposals. EPC Respondents will be required to provide detailed information regarding the specifics of engineering and constructing an addition to an existing PNM plant or location. For an EPC Bid at PNM-controlled sites, Respondent will be responsible for ensuring that the Proposal will satisfy the existing site permits and electrical interconnection limitations.

6.5 ADDITIONAL REQUIREMENTS FOR PPA / BT / ESA PROPOSALS

- A PPA or ESA Proposal term of twenty (20) years or more is preferred. PPAs for shorter terms will be considered and upon expiration of the quoted term will be evaluated with the modeling of replacement resources consistent with PNM's long-term planning objectives.
- PPAs utilizing carbon-emitting technologies shall provide a pricing alternative for a 17 year term or provide an alternative solution for carbon-free operation beyond December 31, 2039.
- Offered resources must be interconnected to PNM load within WECC Path 48 or at the San Juan switch yard, or delivered on firm, third-party transmission to PNM load within WECC Path 48; in all cases, the ability to deliver to PNM's load is required.
- Costs proposed for all PPA, BT, and ESA resources must include electrical interconnection costs, fuel, and other utility costs if applicable. Respondent's Proposal must include firm, not to exceed, interconnection costs.
- The Proposal must demonstrate credit support as defined in Section 6.7 and/or collateral value sufficient to provide surety of contract performance over the full agreement term. Acceptable methods of surety, in the reasonable discretion of PNM, include (a) cash, (b) a Letter of Credit in a form reasonably acceptable to PNM issued by a U.S. bank or a U.S. branch of a foreign bank with credit ratings by both Standard & Poor's Ratings Group ("S&P") and Moody's Investor Services, Inc. ("Moody's") of at least A- and A3, respectively and at least Ten Billion Dollars (\$10,000,000,000) in U.S.-based assets (c) a Respondent Guaranty from Respondent Guarantor, or (d) other security as may be reasonably acceptable to PNM.

- PPA Proposals, in Attachment D-1, must outline considerations associated with potential reliability curtailments as directed by PNM or another BA.
- For renewable PPA Proposals, the Respondent must configure the ramp rate for the Project such that it will not generate energy at a rate that increases greater than ten (10) MW per minute.
- Respondents proposing BT projects must provide a comprehensive Proposal demonstrating compliance with the applicable Technical Specifications included in Appendix F. For any Proposals considering technologies other than those specified in Appendix F, Respondents must provide sufficient detail to demonstrate that the project will be developed, designed and delivered in accordance with prudent utility practices and to utility-grade standards.
- Due to the associated risk of liabilities (e.g. health, safety, environmental), NERC and WECC security requirements, and the associated complications with having a third-party owner/operator on a PNM-controlled site, PNM will not consider PPA or BT Proposals on existing PNM controlled locations.
- PNM has a preference for PPA Proposals that do not subject PNM to any accounting or tax treatment that results from imputed debt, capital lease or Variable Interest Entity ("VIE") treatment. All PPA Proposals must:
 - Demonstrate that the Respondent has considered applicable accounting standards in regard to capital leases, specifically Financial Accounting Standards Board ("FASB") Accounting Standards Codification Topics ("ASC") 840 and 842 Leases and any PNM variable interest in a VIE pursuant to FASB Topic ASC 810 Consolidation-Variable Interest Entities;
 - Provide analysis and conclusion of the Respondent's knowledge and belief regarding why the Respondent's Proposal would not result in a capital lease (ASC 840 and 842) or a variable interest in a VIE (ASC 810);
 - Summarize any changes that the Respondent proposes to the Model PPA Form Agreements or Term Sheets attached to this RFP in order to attempt to address these issues; and
 - Describe the role of federal and state tax credits (or other incentives) on the financing of the project. Proposals considering qualification of the Federal Production Tax Credit ("PTC") or the Federal Investment Tax Credit ("ITC") must include documentation/evidence of qualification or, as applicable, approach for qualification. Proposals considering PPA structures must be based on the Respondent retaining all risk associated with federal tax credit qualification including any associated price and schedule impacts.

6.6 ADDITIONAL REQUIREMENTS FOR APA PROPOSALS

All APA Proposals must provide a description of the proposed transaction from a tax perspective, including whether the Respondent plans to sell an LLC or assets, which could have tax implications for PNM. Costs proposed for all APA resources must include all electrical interconnection, fuel, and other utility costs, as applicable. Respondent's Proposal must include firm, not to exceed, interconnection costs.

6.7 CREDIT REQUIREMENTS

The Respondent must be able to satisfy PNM's credit standards to ensure the Respondent has adequate financial capability. PNM requires qualified Respondents to either have an investment grade rating (S&P BBB- or above; Moody's Baa3 or above), or have sufficient equity security to cover Respondent's anticipated delivery obligations under any agreement entered into as a result of this RFP process. PNM will utilize the lower of the published credit ratings from S&P or Moody's for long-term senior unsecured debt to determine a Respondent's credit rating. PNM may also consider credit rating by other credit agencies. If Respondent is unable to satisfy the foregoing credit standards, Respondent may designate a Credit Support Provider / Guarantor, and if the Credit Support Provider / Guarantor is satisfactory to PNM, the Respondent will be deemed to have satisfied PNM's credit standards. The quality of credit of the proposed Credit Support Provider / Guarantor will be evaluated under the same standards as that of the Respondent.

Execution of a final, definitive agreement under this RFP will be conditional upon full satisfaction of PNM's credit support requirements. PNM reserves the right to require additional credit standards and to review and evaluate the quality of credit of each Respondent and Credit Support Provider/Guarantor and to make adjustments, as necessary, in the application of the foregoing standards.

6.8 COST OF BIDDING

Respondent will bear all costs associated with the preparation and submission of its Bid. Neither PNM, nor its parent company or affiliates, nor any agent of PNM will be responsible or liable for any costs, regardless of the cost or outcome of the bidding process.

6.9 BID SUBMISSION FEE

A non-refundable RFP submission fee of \$5,000 per Respondent must accompany the Proposal in order to qualify the Proposal for consideration. For purposes of this RFP, multiple options submitted by a single Respondent will only incur one fee, provided the options do not differ in type of Proposal offered (e.g. PPA, EPC, APA, BT; a Respondent would incur two bid fees if they submitted a PPA Proposal and a BT Proposal). The fee may be paid by certified check made out to "Public Service Company of New Mexico". Payment via ACH is also accepted.

Mail bid fees to: Public Service Company of New Mexico
 Attn: Division Accounting MS-ES01
 2020 Gen Resources RFP
 4201 Edith Blvd.
 Albuquerque, NM 87107

ACH Remittance Instructions:

Bank Name: Wells Fargo Bank
ABA# 12100248
Attn: Dan Conklin
MAC: Q2129-103

200 Lomas Blvd. NW
Albuquerque, New Mexico 87102
Phone: (505) 765-5224
Beneficiary:
Account Name: PNM Misc. Depository
Account No.: 651-100-3698
For: PNM 2020 Replacement Generation RFP

6.10 DISCLAIMER

Respondent is responsible for examining the complete Bid Documents and any subsequently issued RFP addenda and is responsible for analyzing all RFP requirements that might in any way affect the cost of the project or performance of any part of the work to be completed in connection with the project ("Work"). Failure to do so will be at the sole risk of the Respondent, and no relief will be given for errors or omissions resulting therefrom.

6.11 RESPONDENT'S REPRESENTATION

Each Respondent, by submitting a Proposal, represents that the Respondent has read and understands the Bid Documents and is familiar with the local conditions under which the Work is to be performed. Respondent further represents that it has all licenses and permits required by applicable law to submit its Bid.

6.12 REQUIRED APPROVALS

Each Proposal must state that Respondent has obtained all necessary internal approvals prior to the submission of the Proposal. All Proposals must be signed as follows:

- Corporations: Signature of officer must be accompanied by a certified copy of the resolution of the Board of Directors authorizing the individual signing to bind the corporation.
- Partnerships: Signature of one partner must be accompanied by a certified copy of the power of attorney authorizing the individual signing to bind all partners. If a certified copy of the partnership's certificate submitted with the Bid indicates that all partners have signed, no authorization is required.
- Joint Ventures: Signature by one of the joint venture parties accompanied by a certified copy of the power of attorney authorizing the individual signing to bind all the joint venture parties. If a certified copy of the joint venture party's certificate submitted with the Bid indicates that all joint venture parties have signed, no authorization is required.

6.13 PROPOSAL SUBMITTAL

Respondents must submit Proposals via PNM Sourcing's public site by accessing the RFP event "100-GENALL-2020", where instructions for submitting Proposals are also provided. Complete Proposals, including all exhibits, forms, and fee, must be received on or before 4:00 p.m. (MST) on the RFP response due date via the RFP event. All Proposals will become the property of PNM and will not be returned to the Respondent.

6.14 WITHDRAWAL OF BIDS

A Respondent may withdraw a Bid, either personally or by written request, at any time prior to the scheduled time for opening Bids. No Respondent may withdraw a Bid prior to June 30, 2022 without written consent of PNM, and Bids will be subject to acceptance by PNM during this period.

6.15 CONFIDENTIALITY AND COMPLIANCE

PNM will take reasonable precautions and use commercially reasonable efforts to protect any claimed proprietary and confidential information contained in a Proposal, provided that such information is clearly identified by the Respondent as "PROPRIETARY AND CONFIDENTIAL MATERIAL". Notwithstanding the foregoing, PNM in its sole discretion may release such information: (1) to any external contractors for the purpose of evaluating Proposals, but such contractors will be required to observe the same care with respect to disclosure as PNM; (2) to others who have a need for such information for purposes of evaluating the RFP and the Proposals, the RFP process or a final definitive agreement resulting from the RFP process ("Agreement"), including but not limited to the Commission, its employees, staff, consultants and/or agents, and other parties, their consultants and/or agents, or in any Commission proceedings relating thereto; or (3) if PNM is requested or compelled to disclose such information (or portions thereof) (i) pursuant to subpoena or other court or administrative process, (ii) at the direction of any governmental authority with jurisdiction over PNM, or (iii) as otherwise required by law. If PNM determines that the release of such information will be made under one of the circumstances set out above, PNM will provide Respondent with written notice. PNM is under no duty or requirement to Respondent to withhold such information or take legal steps to protect the information from disclosure if, in PNM's judgment, there is a need to provide it under the circumstances described above. Under no circumstances will PNM, its parent corporation or affiliates, or any of their directors, management, employees, agents or contractors be liable for any damages resulting from the disclosure of Respondent's claimed proprietary and confidential information during or after the RFP process. By submitting a Proposal in response to this RFP, Respondent acknowledges and agrees to the requirements in this provision concerning confidentiality. In the event PNM uses internal, proprietary projections in its evaluation process, the resulting projections will not be shared with Respondents.

6.16 COLLUSION

By submitting a Proposal to PNM in response to this RFP, the Respondent certifies that the Respondent has not divulged, discussed, or compared its Proposal with other Respondents and has not colluded whatsoever with any other Respondent or parties with respect to its Proposal or other Proposals; provided, however, that this provision does not and is not intended to prevent multiple parties from making a joint Proposal in which the roles and responsibilities of each party are clearly delineated in the Proposal.

6.17 COMPLIANCE WITH LAW

Each Respondent must ensure that its Proposal is in full compliance with all applicable Federal, State and local laws, rules, regulations or other requirements. It is the obligation of Respondent to determine whether a contractor's license is required to submit a Proposal and/or complete the Work. If a license is required to submit a Proposal, Respondent must ensure that the license is issued in its name and that Respondent is in possession of such license at the time it submits its Proposal. Proposals for EPC and BT projects must include copies of required license(s) in the Proposal submittal. Additional information may be obtained from the New Mexico Construction Industries Division - <http://www.rld.state.nm.us/construction/>.

It is the obligation of Respondent to determine whether a professional engineering license in one or more disciplines is required to perform the Work and to ensure that Respondent is in possession of such license at the time it submits its Proposal. New Mexico Administrative Code Rule 16.39.3.12. See also, generally, NMSA 1978, Sections 61-23-1 through 61-23-24 and New Mexico Administrative Code Title 16, Chapter 39, Part 3. Additional information may be obtained directly from the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors - <http://www.sblpes.state.nm.us>.

6.18. BID FORMAT AND CONTENTS

This section outlines the content and format requirements for all Proposals submitted in response to this RFP. Unless PNM in its sole discretion elects otherwise, Proposals that do not include the information requested in this section will be ineligible for further evaluation, unless PNM determines that the information requested is not applicable or not relevant to a given Proposal. PNM reserves the right to conduct any further due diligence it considers necessary to fully understand and evaluate Proposals prior to entering into any Agreement.

A complete Proposal will include the following components:

- Executive Summary;
- Complete set of applicable Bid Forms (Forms identified below);
- Form attachments (as necessary to elaborate on Bid Form information); and
- Any additional electronic data or narrative discussion.

6.18.1 Executive Summary

The Executive Summary should briefly describe the Respondent, the project(s) or resource(s) that are part of the Proposal, the capacity amount, timing and term of the Proposal, and key highlights of the pricing and terms of the Proposal, including whether it will be considered a capital lease or be subject to VIE treatment.

6.18.2 Bid Forms

Required Bid Forms will vary between EPC Proposals and all other Proposals. The required forms for each are as identified below. To the extent the full completion of any form requires additional information or clarification, please provide that information as an attachment to the form. Information provided in these forms will be a basis for determining performance guarantees associated with a potential Agreement. Electronic submissions should include the completed Bid Forms in the format provided on the RFP event.

6.18.2.1 EPC Bid Forms. The Bid Forms for EPC Proposals include:

- EPC Attachment A – Notification of Intent to Bid Form
- EPC Attachment B – Bid Profile
- EPC Attachment C – Bid Certification Form
- EPC Attachment D – Proposal Form
- EPC Attachment D-1 – Price Breakdown Table
- EPC Attachment E-1 – Commercial Clarifications and Exceptions
- EPC Attachment E-2 – Technical Clarifications and Exceptions
- EPC Attachment F – Conflict of Interest Form
- EPC Attachment G – Contracting/Employment Plan
- EPC Attachment H – Milestone Payment Schedule
- EPC Attachment I – Cancellation Schedule
- EPC Attachment J – Proposal Data Forms
- EPC Attachment K – Technical Submittal Checklist
- EPC Attachment L – RFI Log

EPC Attachment M – Bulk-Power System Equipment Sourcing Methodology

6.18.2.2 Non-EPC Bid Forms. The Bid Forms for all Proposals, other than EPC Proposals, include:

- Attachment A – Notification of Intent to Bid Form
- Attachment B – Bid Profile
- Attachment C – Bid Certification Form
- Attachment D-1 – PPA Proposal Data Forms
- Attachment D-2 – APA Proposal Data Forms
- Attachment D-3 – BT Proposal Data Forms
- Attachment D-4 – ESA Proposal Data Forms
- Attachment E – Technical Description
- Attachment F – Electrical Interconnection – Power Delivery
- Attachment G – Fuel Information
- Attachment H – Permitting, Land Use, Zoning
- Attachment I – Project Milestones
- Attachment J – Contracting/Employment Plan
- Attachment K – Bulk-Power System Equipment Sourcing Methodology
- Attachment L – RFI Log
- Attachment M – Conflict of Interest Form
- Attachment N – APA/BT Technical Submittal Checklist

6.18.2.3 EPC Supplemental Information. In addition to the forms noted above, Respondents must include supplemental information to clearly identify the scope of the Proposal. The supplemental information for EPC Proposals, at a minimum, must include the following, in the order identified, with each topic beginning on a separate page.

- A. Description of the Respondent
- B. Financial Information / Credit Quality
- C. Exceptions / Red-Line Markup to the form Contract (provide in original, native file formats with tracked changes)
- D. Identification of all Pricing Terms
- E. EPC Contractor Rate Schedule (engineering, construction, field labor, and equipment)
- F. Required Licenses as referenced in Section 6.17
- G. Project Description
- H. Equipment Description
- I. EPC Experience / Similar Projects
- J. Project Team Organization and Resumes
- K. Contracting and Employment Plan
- L. Corporate Environmental, Health, and OSHA Safety Records for the last three years
- M. Project Implementation Schedule
- N. Project and Construction Execution Plan
- O. Other Attributes

6.18.2.4 Non-EPC Supplemental Information. The supplemental information, at a minimum, must include the following, in the order identified, with each topic beginning on a separate page.

- A. Description of the Respondent
- B. Financial Information / Credit Quality
- C. Contract Accounting / Project Financing Plan

- D. Identification of all Pricing Terms
- E. Project Description
- F. Power Delivery Plan
- G. Transmission Plan
- H. Interconnection Plan
- I. Fuel Contracting Plan
- J. Project Environmental Overview
- K. Operations and Maintenance Plan
- L. Contracting and Employment Plan
- M. Environmental Permitting and Compliance Plan
- N. Corporate Environmental, Health, and OSHA Safety Records for the last three years
- O. Exceptions / Red-Line Markup to the applicable form Contract or Term Sheet (provide in original, native file formats with tracked changes) or, for DSM Proposals, a standard form agreement for the product proposed
- P. Assignability
- Q. Projects to-be-built
 - 1. Equipment Description
 - 2. Required Licenses as referenced in Section 6.17
 - 3. Development Experience
 - 4. Development Schedule
 - 5. Real Property Acquisition Description and Plan
 - 6. Permitting Plan
 - 7. Community/State Reaction Assessment
- R. Other Attributes

PART 7 – RFP PROCESS

7.1 COMMUNICATION

7.1.1 PNM Sourcing’s Public Site

All inquiries and other communications relating in any manner to this RFP will be hosted on the RFP event “100-GENALL-2020” for the PNM 2020 Replacement Generation RFP posted in PNM Sourcing’s public site hosted by Jaggaer. RFP communications and documents can be found within the RFP event.

Below is the link to access PNM Sourcing’s public site:

<https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=PNMResources>

PNM makes no commitment to respond to other communications received via telephone, FAX, text messaging or other media. Additionally, Respondents may not rely on any oral representation or oral modification made by any PNM employee or agent of PNM. In order to preserve transparency in the process and to assure that all Respondents receive equal consideration, Respondents may not contact any PNM employees or agents of PNM in regard to this RFP. Failure to comply with this requirement could result in disqualification of the corresponding Proposal. All communications are to be conducted through the RFP event.

7.1.2 Responses to Inquiries

PNM will prepare written responses to questions received and will post the responses (without identification of the party asking the questions) on the RFP event for all

Respondents who submit a Notice of Intent to Respond. All questions must be submitted via the RFP event and the RFI Log template included with these Bid Documents.

Questions must be formatted as follows:

- Clearly identify specific document reference to which the question pertains, and date;
- Clearly identify the document language or section in question; and
- Sequentially number each question in each submittal.

Questions must be timely submitted in groups to allow for proper consideration and response. Questions that Respondent believes to be commercially sensitive or confidential must be individually marked as "Confidential". Questions marked "Confidential" will not be shared with other Respondents unless PNM determines that the question is a general, non-sensitive technical or commercial question.

7.2 SCHEDULE

The RFP process will proceed in accordance with the following schedule:

| BID SCHEDULE – ACTIVITY | DATE |
|---|------------------------------|
| RFP Process Announced / Non-Disclosure Agreement Available on PNM’s RFP event | June 18, 2020 |
| RFP/Bid Documents available | June 25, 2020 |
| Pre-Bid Conference and EPC Site Visit Registration Deadline | July 7, 2020 |
| Pre-Bid Conference | July 14, 2020 |
| EPC Site Visits | July 15-17, 2020 |
| Notification of Intent to Respond Due ** | July 29, 2020 |
| Deadline for Questions from Respondents | September 11, 2020 |
| RFP Response & Proposal Fee Due* | September 23, 2020 |
| Successful Short-List Respondents Notification | 4 TH Quarter 2020 |
| Successful Respondent Notification | 1 ST Quarter 2021 |
| Estimated Commission Approval of Selected Project(s) | 1 ST Quarter 2022 |
| Targeted Power Supply / Commercial Operation Date | June 1, 2023 or before |

* Respondents must note that the RFP response due date is firm. No extensions to the bid process duration as noted above will be offered.

- ** Respondents executing a non-disclosure agreement and receiving the Bid Documents after the Notification of Intent to Respond due date shall be required to submit their Notification of Intent to Respond within one week of executing the non-disclosure agreement.

PNM reserves the right to revise, suspend, or terminate this RFP process and any schedule related thereto at its sole discretion without liability to Respondents or any other person or entity.

Communications regarding the status of this RFP process, including any and all changes and addenda to this RFP or attendant schedules, will be made via the RFP event.

7.3 PRE-BID CONFERENCE

7.3.1 Schedule

PNM will host a pre-bid conference further detailing information requested in the RFP. A webinar will be available and preliminary details will be provided on PNM Sourcing's public site. Please check the RFP event for any schedule changes or updates. Interested parties and Respondents are encouraged to listen on-line and bring any questions requiring clarification. Your registration, submitted via the RFP event, will be required to assure adequate webinar access for participants.

Date: **Tuesday July 14, 2020**

Time: **3:00 PM – 5:00 PM, Mountain Time**

Webinar Details: To be communicated via PNM Sourcing's public site

7.3.2 Site Visit Details

PNM will host site visits or otherwise collaborate to provide information regarding the potential EPC project sites upon Respondent request and as coordinated with the EPC Proposal Facilitator. Prior registration via PNM Sourcing's public site for site visits will be required to allow the EPC Proposal Facilitator to assure adequate space and access security for site visit participants. Alternatively, Respondents may request other forms of site investigation via webinar, video-conferencing, or other forms of data exchange.

Respondents participating in site visits are responsible for their own personal protective equipment ("PPE"), transportation, food, and lodging arrangements and must arrive at the agreed location(s) no later than the time as agreed with the EPC Proposal Facilitator.

7.4 SITE INSPECTION

In addition to these site visits, any supplemental information provided by the EPC Support Team, and examination of the Bid Documents, each Respondent will be solely responsible for conducting such due diligence as it deems necessary or desirable to be fully informed as to the existing and expected job site and off-site conditions and matters which might in any way affect the cost and/or the performance and completion of the Work. Any failure by Respondent to fully investigate the job site and complete its due diligence as to job site conditions will not relieve Respondent from responsibility for estimating properly the difficulty or cost of successfully performing and completing the Work.

In addition, prior to submitting its Bid, Respondent must familiarize itself with local conditions that could affect or impact the Work in any manner whatsoever, and all requirements of applicable permits, licenses, laws, codes, rules, regulations, ordinances,

statutes, labor policies, zoning, and local transportation issues. All communications with any local authorities must be coordinated through PNM.

7.5 NOTIFICATION OF INTENT TO RESPOND

In order to identify persons or entities interested in submitting a Proposal, and for those persons or entities to receive any subsequent information distributed in the Proposal process, interested parties shall submit via the RFP event a Notification of Intent to Respond on or before 4:00 P.M. Mountain Time on the Notification of Intent to Respond due date. The form is available as Attachment A to this RFP and can be downloaded from the RFP event.

Any Respondent requesting access to the Bid Documents and executing a non-disclosure agreement after the Notification of Intent to Respond due date shall be required to submit their Notification of Intent to Respond within one week of executing the non-disclosure agreement.

Respondents shall identify the type(s) of project structure that they intend to bid in the Notification of Intent to Respond.

7.6 OWNERSHIP OF BID DOCUMENTS

The Bid Documents are confidential, are the property of PNM, and are only for the purpose of Respondents' preparing and submitting a Proposal in response to this RFP. In anticipation of a confidentiality agreement between Respondent and PNM for the project, no information contained or referred to in the Bid Documents may be disclosed or released except as agreed to by PNM.

7.7 PNM RESERVATION OF RIGHTS AND DISCLAIMERS

Nothing in this RFP constitutes an offer or acceptance by PNM, and PNM hereby disclaims any intent for this RFP to constitute a binding contract between PNM and any Respondent. PNM retains the right to determine, in its sole discretion, the value to PNM and its customers of any or all Proposals. PNM reserves the right to negotiate with a Respondent or Respondents after submission of a Proposal. PNM further reserves the right to negotiate with only those Respondents whose Proposals, as PNM determines in its sole discretion, have a reasonable likelihood of being executed. In the event negotiations with a Respondent or Respondents do not produce a final and fully executed Agreement satisfactory to PNM and authorized by the Commission, without material changes, for inclusion in PNM's resource portfolio, PNM reserves the right to pursue any and all other resource options available to it.

PNM may reject any Proposal that it determines, in its sole discretion:

- Does not meet the minimum requirements set forth in the RFP; or
- Does not include all required elements under Commission Rule 572; or
- Does not provide required information in a manner that allows effective evaluation; or
- Is not economically competitive with other Proposals or, when evaluated in combination with other selected Proposals, does not meet PNM's requirements for energy, capacity and flexible generation by 2023.

PNM reserves the right, without qualification and in its sole discretion, to modify, suspend or withdraw this RFP, accept or reject any or all Proposals for any reason at any time after submittal without explanation to the Respondent, or to enter into an Agreement at any time with a Respondent who, in the opinion of PNM, will provide the most value to PNM

customers. PNM also reserves the right to contract with Respondent(s) other than the lowest price Respondent or with other than the Respondent evidencing the greatest technical ability, if PNM, in its sole discretion, determines that to do so would result in the greatest value to PNM customers.

PNM may, at its sole discretion, and at any time throughout the Proposal development cycle, Proposal evaluation or negotiations request changes to Respondents' Proposals, scope or general offering as may be desired by PNM or as may be necessary based on regulatory requirements.

PNM, in its sole discretion, may decline to enter into an Agreement with any Respondent, and may terminate negotiations with any Respondent, at any time during the process.

Those Respondents who submit Proposals do so without legal recourse against PNM, PNM's parent company or affiliates, and the directors, management, employees, agents or contractors of any of them, due to (1) PNM's rejection, in whole or in part, of the Respondent's Proposal; (2) PNM's rejection, modification, delay or withdrawal, in whole or in part, of this RFP; (3) failure to execute any Agreement; and (4) any other reason arising out of this RFP. PNM will not be liable to any Respondent or to any other party, in law or equity, for any reason whatsoever relating to PNM's acts or omissions arising out of or in connection with the RFP process.

Respondent will be liable for all of its costs, and PNM will not be responsible for any of Respondent's costs, incurred to prepare, submit, or negotiate its Proposal, a definitive Agreement or any other activity related thereto.

PNM reserves the right, at any time, to establish a minimum and/or maximum amount of energy to be acquired under any Proposal or combination of Proposals.

PART 8 – BID EVALUATION AND CRITERIA

8.1 CLARIFICATION OF PROPOSALS

PNM may request clarification or additional information during the RFP evaluation process about one or more items in a Respondent's Proposal. Such requests will be sent via email to Respondents, who will be required to provide an electronic response within five (5) business days, or PNM may deem the Respondent to be non-responsive and either suspend or terminate evaluation of the Proposal. Respondents may provide an alternate point of contact to ensure a timely response to clarification questions.

8.2 EVALUATION OF PROPOSALS

The objective of this RFP is to identify and procure resources that, when combined with the existing PNM generation portfolio, support overall reliability of system service and result in a portfolio of generating resources capable of meeting capacity and energy needs of PNM's customers at a low cost. The objective of the evaluation is to fairly and competitively select those projects that bring the most value to PNM's customers while, consistent with the objectives of NMSA 1978, Section 62-13-16, the REA, and the IRP Rule, preferring resources with the least environmental impacts, those that maximize employment of New Mexico work force, and those that utilize apprentices for the project construction. In addition to the evaluation of individual Proposals as described below, PNM will conduct an evaluation of the overall portfolio of resources.

8.2.1 Phase One Evaluation

The evaluation will be conducted in three phases with Phase One being an initial screening of the Proposals for compliance with the RFP minimum requirements (See, e.g., Section 5.1

and Part 6). The Phase One screening process will be performed for each Proposal to determine if all required information has been provided and minimum requirements satisfied. Material deficiencies will disqualify a Proposal from further consideration, and the Respondent will be notified in such event. PNM reserves the right, in its sole discretion, to either reject incomplete or unclear Proposals from further consideration or to contact Respondents for purposes of Proposal clarification, pursuant to Section 8.1 of this RFP.

8.2.2 Phase Two Evaluation

Proposals that have provided the required data and satisfied the minimum Bid requirements will be passed to Phase Two of the evaluation. Phase Two of the evaluation will focus primarily on pricing factors associated with each Proposal, the overall viability of the Proposal with respect to its ability to achieve commercial operation by the required in-service date, and overall compliance with the objectives of NMSA 1978, Section 62-13-16, the REA, and the IRP Rule. Both price and non-price criteria for each Proposal will be summarized and evaluated. Proposals will be ranked on a total evaluated delivered cost of energy basis with non-price evaluation factors considered in establishing a "short-list" of Bids. Respondents must include sufficient detail for PNM to be able to evaluate all costs associated with the Proposal(s). Price and non-price evaluation factors considered in the establishment of a short-list are summarized below.

If available in response to the RFP, a sufficient quantity of Bids of each proposed technology will be carried into the selected short-list to fulfill the RFP needs identified herein. These short-listed projects will be carried into more detailed system portfolio modeling in Phase Three of the evaluation.

8.2.2.1 Price Evaluation Process. PNM will rank all Proposals from a cost standpoint. The price screening consists of measuring each Proposal's total delivered cost of energy, including:

- A. Capital costs and/or capacity costs;
- B. Fixed operation and maintenance costs;
- C. Variable production costs;
- D. Fuel and water costs;
- E. Transmission costs, including third party wheeling;
- F. Operational costs, including system regulation requirements as a result of the project;
- G. Other system benefits (including accounting for availability of RECs) or costs (including impact to system losses);
- H. Opportunities for marketing of excess energy;
- I. Any additional costs that are required, but not provided for in the Proposal; and
- J. Financial implications of accounting and tax treatment.

In Phase Two, Proposals will be ranked on the basis of minimizing the total evaluated delivered cost of energy (i.e. total cost impact) from the resource. Proposals with a low total cost impact on the PNM system will receive a higher score than Proposals with a high total cost impact.

8.2.2.2 Non-Price Evaluation Process. The following non-price factors will be given consideration in the Phase Two evaluation process. These factors are established as a measure of the viability of the Project and the Respondent's ability to deliver the Project, as proposed.

- A. Project Viability including:
 - a) Project development and permitting status, including any potential for delay as the result of a Respondent's need for regulatory actions or approvals or for permitting, licensing or transmission interconnection;
 - b) Commercial viability, maintainability, and maturity of technology proposed at the scale quoted;
 - c) Detailed project critical path schedule identifying all important development elements, environmental permit milestones and their timing;
 - d) Respondent's experience with technology and contract structure proposed; and
 - e) Viability of performance and capacity quoted.
- B. Contribution to PNM's overall system reliability. (i.e. the project's operational control or lack thereof and its effect on PNM's reliability metrics);
- C. Project Employment Plan – measuring Respondent's intention for employment of local, New Mexico work force and apprentices for the construction of the facilities;
- D. Environmental and Siting Plan – An assessment of the emissions profile, environmental footprint and overall environmental feasibility for each Project, site, access, and all necessary right of ways; and
- E. Respondent's OSHA Safety records.

At the end of Phase Two, a short-list of projects will be determined, at which time Respondents may be requested to supply additional information. Unsuccessful Respondents will be notified at the end of the Phase Two assessment that their Proposals will not be considered further. Successful Respondents will be notified via the RFP event that they have passed to the third phase of the process, whereupon additional evaluation will be conducted and the preferred resources identified ("Phase Three").

8.2.3 Phase Three Evaluation

Following the Phase Two evaluation, short-listed Proposals will undergo further investigation and evaluation in the Phase Three evaluation. The Phase Three evaluation will involve portfolio system modeling, more in-depth assessment of the pricing factors noted above as well as comparison and ranking of additional non-price factors. All factors will be ranked in a Bid ranking matrix to assist in the final selection of Proposals. The results of the ranking matrix will be considered in conjunction with portfolio economics and system reliability evaluation results from the system portfolio modeling analyses. From the final set of short-listed Proposals, PNM will select the preferred alternative or combination of alternatives and will pursue negotiations to secure resources. Provided the parties successfully negotiate an

Agreement for the project, PNM will then make appropriate filings seeking approval from the Commission based on the negotiated terms of the Agreement(s).

8.2.3.1 Non-Price Evaluation Process. In addition to the non-price evaluation factors identified in the Phase Two evaluation, the additional factors reviewed in the Phase Three evaluation and the Bid ranking matrix will include the following:

- A. Commercial / Contract Compliance including:
 - a) Degree of acceptance of PNM's commercial terms; and
 - b) Product and equipment warranty protections.
- B. Respondent Characteristics including
 - a) Creditworthiness;
 - b) Ownership structure and operating history;
 - c) Health and safety history (see Section 8.3.2 below);
 - d) Environmental record/history; and
 - e) Financing plan/structure.
- C. Environmental Considerations including:
 - a) A Respondent's Environmental Management System, i.e., how the Respondent handles the environmental risk and recycling of project materials associated with its operations and the extent Respondent has developed and implemented an Environmental Management System.
- D. Project Design Plan / Characteristics including:
 - a) Operational flexibility characteristics of the proposed resource and its ability to support CAISO EIM participation (start times, ramp rates, frequency response, minimum down-times / up-times, allowable start frequency, etc.). In particular, if proposing a PPA, limitations on or financial consequences of curtailments, maintenance scheduling, or operational parameters will be evaluated;
 - b) Operations and maintenance plan for the project; and
 - c) Preliminary engineering study describing the generation technology, emission control equipment and fresh water usage.
- E. Electrical Interconnection Plan / Transmission System Benefits including:
 - a) Assessment of Respondent's transmission capability/deliverability analysis to deliver power to PNM load within WECC Path 48 and how Respondent proposes to address potential transmission constraints; and
 - b) Benefits to PNM's electrical transmission system (locational, capital deferral, reliability, etc.).
- F. Community / Stakeholder Considerations including:
 - a) Assessment of community and stakeholder engagement

implemented by the Respondent.

8.3 CONTRACTUAL CONSIDERATIONS

8.3.1 Small Business Plans

PNM promotes and encourages diversity in project sourcing and encourages all Respondent's to maximize the use of small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small business concerns to the greatest extent practical.

8.3.2 Contractor Safety Prequalification Program

PNM has implemented a Contractor Prequalification process as part of their effort to continuously improve in the areas of health, safety, risk, and finance. Respondents who are finalists of this RFP will be required to register with ISNetworld (ISN) auditing at:

<https://www.isnetworld.com>

and obtain a passing safety grade prior to final award of the contract. PNM will notify all finalists and allow reasonable time for the registration process. Contractor is responsible for any Registration's associated costs.

8.3.3 Insurance

The successful Respondent will be required to maintain, at a minimum, standard insurance coverages for Workers' Compensation; Commercial General, Employer's and Automobile liability; and an Umbrella excess liability. Respondents are requested to provide evidence and level of coverage of such insurance for bidding purposes in the Proposal. Specific insurance requirements of PNM and lender's will be addressed as part of the evaluation and negotiation of the Agreement.

8.3.4 Commercial Terms and Conditions

Commercial terms and conditions will be negotiated with the Respondents who are finalists of this RFP. All Proposals will represent a firm offer to contract on the terms and conditions included as Appendices to this RFP. Each representation of fact and promise of future performance within a Proposal will be incorporated into the Agreement as a warranty or covenant. Any statement of fact or promise of future performance that is not intended by the Respondent as a warranty or covenant should be clearly identified.

8.4 AWARD

PNM reserves the right to reject any and all Bids and will inform unsuccessful Respondents upon rejection of their Bids. Prior to PNM's bid award, PNM may have discussions with Respondents whose Bids are under consideration. Respondents may be required to travel to PNM's office or other locations for further discussions.

Negotiations arising out of the Proposals may be conducted with any or all Respondents, at PNM's sole discretion. Winning Respondents will be expected to enter into an Agreement following the award of the Bid. PNM will have no obligation to accept any Proposal submitted pursuant to this RFP. Whether, and on what terms, any Proposal is accepted is within PNM's sole discretion.

A Proposal will be deemed formally accepted only if and when the Agreement has been executed by a Respondent and delivered to PNM, and PNM has signed it. Until such time, none of PNM, its parent company, its subsidiaries or its other affiliates will have any obligation to any Respondent with respect to a proposed project, and following such time,

the only obligations of PNM will be those set forth in the Agreement. By submitting a Proposal, each Respondent agrees that PNM (i) is under no obligation to consider or accept any Proposals made, (ii) will not be liable to any Respondent for the selection of one Proposal in lieu of another Proposal or combination of Proposals and (iii) will not be liable for any costs incurred by any Respondent in connection with this bid process. By submitting a Proposal, each Respondent agrees to the terms of these Instructions to Bidders and acknowledges that it is relying solely upon its own independent investigation and evaluation of its proposed project.