



# **2022 Distribution Investment Deferral Framework Standard Offer Contract Pilot Protocol**

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## I. Introduction and Overview

### I.A. Overview

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Pacific Gas and Electric Company (“PG&E”) is issuing this Distribution Investment Deferral Framework (“DIDF”) Standard Offer Contract tariff pilot (“SOC Pilot”) in compliance with California Public Utilities Commission (“CPUC”) Decision (“D.”)21-02-006. The SOC Pilot is designed to procure In-Front-Of-The-Meter resources to avoid or defer utility distribution investments.

This SOC Pilot Protocol sets forth the terms and conditions by which PG&E will seek Offers. An entity submitting an Offer in response to this SOC Pilot, hereinafter a “Participant,” agrees to be bound by all the terms, conditions and other provisions of this SOC Pilot as contained in this Solicitation Protocol and any changes or supplements to it that may be issued by PG&E. The obligations of the Participant are further described in Section VII.A, Agreement by Participant.

### I.B. 2022 DIDF SOC Pilot Website and Communication

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PG&E has established the website at <http://www.pge.com/rfo/2022didf-soc-pilot> for the 2022 DIDF SOC Pilot. Participants may access and download all 2022 DIDF SOC Pilot documents, announcements, and Q&As that are posted. To ensure the accuracy and consistency of information provided to all Participants, PG&E prefers that Participants communicate by e-mail to both [SOCPilotDIDF@pge.com](mailto:SOCPilotDIDF@pge.com) and to the Independent Evaluator (“IE”) PA Consulting Group, Inc. at [pge\\_ie@paconsulting.com](mailto:pge_ie@paconsulting.com). With respect to a matter of general interest raised by any Participant, PG&E may, without reference to the inquiring Participant, post the question and PG&E’s response on PG&E’s website. PG&E will attempt to respond to all inquiries, but may decline to respond to any particular inquiry.

All correspondence to and from a Participant will be monitored by the IE, PA Consulting Group, Inc. (“PA”), who the CPUC selected to oversee this Solicitation. The IE is an independent, third-party evaluator who is required by the CPUC to monitor and evaluate certain competitive solicitations.

### I.C. Schedule Overview

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The expected schedules for the 2022 DIDF SOC Pilot are listed in Table I which follows.

**Table I: PG&E 2022 DIDF SOC Pilot Schedule**

<b>Date</b>	<b>Activity</b>
September 15, 2022	Issue DIDF SOC Pilot
September 15,- December 14 2022	Participants submit a signed NDA to gain access to the online platform at Power Advocate.
September 29, 2022 at 10:00 – 11:30 AM Pacific Prevailing Time (PPT)	Combined Participants' Webinar for RFO and SOC Solicitations
December 15, 2022 at 5:00 PM (PPT)	Offers(s) due via the online platform at Power Advocate
January 12, 2023	PG&E notifies selected Participants that their Offer(s) will be included on a list of Offers for which PG&E may seek to enter into an Agreement.
January 19, 2023	Participants notify PG&E whether they accept their status and provide an executed agreement
Q1, 2023	Execute transaction(s)
Q1/Q2, 2023	Information Only Submittal of executed transaction(s) to CPUC

The schedule and documents associated with the 2022 DIDF SOC Pilot are subject to change at PG&E’s sole discretion at any time and for any reason. PG&E will endeavor to notify Participants of any changes to the 2022 DIDF SOC Pilot, but shall not be liable for any costs or liability incurred by Participants or any other party due to a change or for failing to provide notice or acceptable notice of any change.

PG&E reserves the right to execute agreements resulting from this 2022 DIDF SOC Pilot (each an “Agreement”) with any individual Participant. PG&E will provide an information-only submittal to the CPUC after Agreement execution, in compliance with CPUC D.21-02-006.

**I.D. Events in the SOC Pilot Schedule**

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- 1) Online Registration: Participants should register on the website at <http://www.pge.com/rfo> under the 2022 DIDF SOC Pilot to receive timely announcements and updates about this DIDF SOC Pilot and other SOC Pilot-related information via email. Online registration is not required, but is strongly recommended.
  - 2) PG&E issues the 2022 DIDF SOC Pilot: All documents associated with the 2022 DIDF SOC Pilot, including documents which Participants will need to prepare their Offer, are posted to PG&E’s public website under “2022 DIDF SOC Pilot”.

- 3) Participants' Webinar: The Webinar will provide an overview of the 2022 DIDF SOC Pilot and the requirements. Call-in information will be provided on the Solicitation website.
- 4) Offers Due: Offers must be received by PG&E by the dates and times listed in Table I. Participant Offer package(s) must be submitted through the online platform, Power Advocate. Offer package(s) must include the documents described in Section V.C, Required Information. PG&E encourages Participants to begin developing their Offer packages early and to send questions regarding the preparation of their Offer to [SOCPilotDIDF@pge.com](mailto:SOCPilotDIDF@pge.com), and copy the IE at [pge\\_ie@paconsulting.com](mailto:pge_ie@paconsulting.com).

PG&E may request a meeting or conference call to discuss a Participant's Offer. The purpose would be to provide PG&E with a full understanding of the details of an Offer for the evaluation process.

- 5) PG&E Selects Offers: PG&E expects to notify Participants selected by the dates and times listed in Table I. PG&E reserves the right to request additional information and to add additional Participants following the initial selection.
- 6) PG&E and Participants Execute Agreements: PG&E does not expect to negotiate with Participants and may select any subset of Offers for execution of an Agreement.
- 7) PG&E notification to CPUC: PG&E will provide an information only submittal to CPUC upon Agreement execution.

## II. 2022 DIDF SOC Pilot Goals

### II.A. PG&E Resource Needs

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PG&E is seeking to enter into Agreements with In-Front-of-the-Meter resources ("Projects") that meet the specifications noted in Section IV, Eligibility Requirements.

There is one (1) location for this 2022 DIDF SOC Pilot, which is a distribution deferral opportunity located in PG&E's planning area. PG&E is seeking to procure approximately 1 MW at the location. The project that can defer the grid need must be capable of increasing load (or charging storage) by approximately 1 MW during daytime hours during the spring.

The deferral opportunity is:

1. Blackwell Bank 1

The expected performance and operational requirements for the deferral opportunity is listed below in Table II. For the Deferral Need, all of the expected performance and operational requirements need to be met in order to defer the planned investment.

Certain Grid Need information is confidential per CPUC D.14-05-016 and therefore redacted and kept confidential. PG&E will provide Participants with additional information about these confidential Deferral Needs upon receiving a fully completed and executed Appendix C – Non-Disclosure and Use of Information Agreement. Participants can send their Appendix C to PG&E via email to [SOCPilotDIDF@pge.com](mailto:SOCPilotDIDF@pge.com).

**PROTECTED AND CONFIDENTIAL INFORMATION SUBJECT TO THE SOLICITATION NON-DISCLOSURE PROVISIONS**

Table II: Expected Performance and Operational Requirements

Deferral Need	Grid Need Location	Real Time (RT) or Day Ahead (DA) Dispatch	Grid Need (MW)	Delivery Month Range	Calls/Year	Delivery Hour Range	Hours Duration	Delivery Day Range	Online Year	Deferral Term (Years)
Blackwell Bank 1	<ul style="list-style-type: none"> <li>Blackwell Bank 1</li> <li>Blackwell 1102</li> <li>Blackwell 2101</li> </ul>	DA							2025	7

Additional information for the deferral opportunity:

- Participants must complete and execute Appendix C – Non-Disclosure and Use of Information Agreement before PG&E can provide confidential grid need information.

PG&E does not want the resources it procures through this 2022 DIDF SOC Pilot to create additional problems on the distribution system. Any resources procured through this 2022 DIDF SOC Pilot must not operate in a manner that negatively impacts the system.

**II.B. Project Costs and Deferral Values**

Project Costs: The capital costs are estimated based on unit costs for typical projects and the exact project costs at the specific location may vary. The costs below are in 2022 dollars.

- Blackwell Bank 1: \$7,500,000

Deferral Value: The distribution deferral values represent the net present value of deferring the annual revenue requirement associated with the tradition distribution investment. The revenue requirement recovers the capital cost of the distribution upgrade, plus any associated O&M and overheads, such as taxes and depreciation. The deferral value is calculated using the Real

Economic Carrying Charge (RECC) methodology as described in PG&E’s Demo B final report, section 8.2<sup>1</sup>. The date used to calculate net present values is December 1, 2022.

The deferral value is listed below:

- Blackwell Bank 1: \$2,887,108

## IV. Eligibility Requirements

Offers must meet the applicable specifications noted below.

### IV.A. Offer Eligibility

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Offers must be for Projects located in-front-of-the-meter and may be dispatchable or non-dispatchable. Projects must be a DER, and capable of increasing load in reverse flow situations which include:

- Energy Storage<sup>2</sup>

### IV.B. Offer Requirements

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PG&E is accepting partial Offers and Offers greater than the full need. Participants are encouraged to submit Offers that meet either 100% or 50% of the Grid Need, though other Offers will be accepted. Offers cannot exceed 120% of the Grid Need MW. The Project must be available during the entire Delivery Hour Range, as detailed in Table II.

Offer pricing is to include a \$/kW-Month fixed price.

PG&E must procure cost-effective resources at the quantities in Table II that address the full needs in order to defer the traditional distribution upgrade that will otherwise be necessary in 2025. To the extent that a Participant is able to, each Participant is encouraged to submit an Offer that addresses the entire need. Not submitting an offer for the entire need will leave the consideration of a Participant’s Offer dependent on other Participants providing complementary offers that can be packaged into a portfolio that meets the complete needs of the deferral opportunity. In addition, PG&E may consider a single counterparty solution to have certain qualitative contract administration benefits.

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<sup>1</sup> <http://drpwg.org/wp-content/uploads/2016/07/R1408013-PGE-Demo-Projects-A-B-Final-Reports.pdf>

<sup>2</sup> Energy Storage charging restrictions will be determined during an interconnection study.



### IV.C. Resource Double Payment/Double Counting

The goal of this Solicitation is to acquire resources that are incremental to both existing resources and resources that are projected to be adopted during the forecast horizon.

Only resources that are categorized as wholly incremental or partially incremental will be considered eligible for the purposes of the 2022 DIDF SOC Pilot. All resource types must go through the project specific review.

For the project specific review, the Offer may be considered between 0% and 100% incremental. Participants must submit Appendix B, Section V. Resource Double Payment/Double Counting, to show how the proposal is either wholly or partially incremental to ongoing PG&E incentive programs, tariffs, or other solicitations. Offers may be considered either fully incremental or partially incremental. Participants will be required to describe how their proposed Project is incremental to PG&E’s programs, tariffs, or other solicitations. Table IV.1 below describes and provides examples for what PG&E considers to be wholly, partially, or non-incremental.

Examples:

Table IV.1: Description and Examples of Incrementality

Category	Example	Incremental
Not already sourced through another program, tariff, solicitation	A new, front-of-the meter renewable generator that is not already under contract to PG&E	Yes
	An “add-on” Offer to any already deployed DER that would allow that already-deployed DER to provide the distribution services solicited (for example, a demand response Offer that utilizes existing thermostats, distributed generation, energy storage, or electric vehicles).	Yes, if the existing resources without the “add on” were not capable of providing the distribution service. This would also include the addition of dispatchable storage to an existing, non-dispatchable behind-the-meter solar resource, or the provision of dispatchable distribution service from an SGIP storage resource that is not dispatchable under its current tariff.
	A new load modifying demand response Offer that provides the local distribution services solicited (for example, an appliance direct load control program).	

Category	Example	Incremental
	An energy efficiency measure or targeted customer group that is not already included in PG&E's energy efficiency program portfolio.	
Partially sourced through another program, tariff, solicitation	Offering an enhanced incentive to increase uptake of a DER in an area over what would be expected under the base program, tariff, solicitation (for example, converting an existing energy efficiency co-pay program to a direct install program or offering enhanced incentives to increase uptake of distributed generation or energy storage in a local area).	Yes, but only the portion (if any) that is not currently being compensated for by the existing base program, tariff, solicitation.  There would be a high bar in this case for the vendor to show that the enhanced incentive will increase uptake.
Wholly sourced through another program, tariff, solicitation	<p>Participant submits Offer for rooftop PV that is already compensated under NEM tariff without material enhancement such as adding energy storage.</p> <p>Participant submits Offer for distributed generation or energy storage that is already compensated for under SGIP without material enhancement such as committing capacity to dispatch pursuant to a distribution services agreement.</p> <p>Participant submits Offer for distribution services from an existing front-of-the-meter solar resource</p> <p>Participant submits Offer for EE or DR program that is already in PG&amp;E's EE or DR portfolio without material enhancement.</p>	<p>No, distribution services have already been compensated for under existing programs or tariffs.</p> <p>No, Absent the addition of an additional service, resource is already sourced through an existing channel.</p>

#### IV.D. Interconnection

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Projects must connect or be associated with load facilities that connect to one of the feeders at the following locations:

- Blackwell Bank 1

Connecting to Blackwell Bank 1 means either

- connecting directly to Blackwell substation or
- connecting to Feeder 1102 or
- connecting to Feeder 2101

There are no minimum interconnection study requirements for an Offer. However, PG&E will assess whether Projects are likely to meet the required online date. Participants should submit any applicable interconnection studies with their Offers.

Additional overview and resource information on PG&E's Interconnection can be found at: [Interconnections/Renewables \(pge.com\)](#) and on the PG&E website.

PG&E encourages Participants to utilize PG&E's Integration Capacity Analysis (ICA) map, which is designed to help contractors and developers find information on potential project sites for distributed energy resources (DERs).

Additional information on PG&E's ICA map can be found at:

[https://www.pge.com/en\\_US/for-our-business-partners/distribution-resource-planning/distribution-resource-planning-data-portal.page?ctx=large-business](https://www.pge.com/en_US/for-our-business-partners/distribution-resource-planning/distribution-resource-planning-data-portal.page?ctx=large-business)

## V. Offer Submittal Process

### V.A. Submittal Process Overview

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All Offers must be received by the dates and times specified in Table I.

**Submitting Documents:** All Offers for this 2022 DIDF SOC Pilot *must* be submitted electronically through Power Advocate. Prior to submitting an Offer, Participants must register with Power Advocate. PG&E strongly encourages Participants to register with Power Advocate well before Offers are due. PG&E will post detailed instructions on the 2022 DIDF SOC Pilot website for submitting Offers and using the online platform. Power Advocate registrants should be listed under the entity submitting the Offer, the Participant, not its consultants.

Power Advocate Link for Blackwell Bank 1:

- <https://www.poweradvocate.com/pR.do?okey=136835&pubEvent=true>
- Event #136835

Power Advocate functions in most browsers; however, it may not work as well in browsers older than Internet Explorer version 8.

Each Offer should be uploaded as a “Commercial” and “Administrative” document type in Power Advocate. If submitting more than one Offer, each Offer should be in separate zip files. Please make sure that file names for your submittals do **not** contain any special characters such as \*&#, and please keep file names short, but do include short references to Participant’s name (such as an acronym) and the appendix (e.g., App B).

**Electronic Document Formats:** Electronic documents must be submitted as Microsoft Word, Microsoft Excel, or pdf files, as identified in Section V.C, Required Information. However, maps or drawings may be in alternate formats (e.g., jpg, kmz) as appropriate. To the extent possible, pdf files should be provided in a searchable format. The Participant should not provide documents in other electronic formats, unless specifically requested.

#### **V.B. Number of Offers and Variations Allowed Per Seller**

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Sellers may submit only one offer. As noted above, to the extent that a Participant can, each Participant is encouraged to submit an Offer that addresses the entire grid need.

#### **V.C. Required Information**

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Each Participant’s Offer must be complete at the time of submission. Participant’s failure to provide all required information may prevent PG&E from being able to evaluate, rank the Offer, and consider it for selection.

Offers must contain all required information and must be organized in accordance with these instructions.

Participants must complete the following documents in the initial Offer package (see Section V.C.1, Offer Package, below). Participants’ Offer should be consistent with the obligations specified in the Agreement.

Note on Joint Offers: If a Participant is submitting an Offer jointly with another Participant, each Participant will need to be registered as a Participant in Power Advocate separately from any other Participant submitting an Offer and PG&E may require additional documentation or conditions, such as retaining separate legal counsel, restricting the sharing of certain

information, or requiring all Participants to the joint Offer to acknowledge acceptance of a modified Confidentiality Agreement and agree to, and execute, modified terms for 2022 DIDF SOC Pilot participation, similar to those set forth in Section VII.A, Agreement by Participant.

### 1. Offer Package

Participants must provide all of the Appendices listed in Table V, below.

Participants wishing to submit an Offer will need to submit a fully completed and executed Appendix C in order to receive the Confidential Offer Forms.

**Table V: PG&E 2022 DIDF SOC Pilot Offer Package**

Appendix	Title	Description	Format
A	Offer Form	Provide the requested information.	MS Excel
B	Supplemental SOC Pilot Documents Required for Participation	Provide the requested information.	PDF
C	Non Disclosure Agreement	Participants must acknowledge acceptance of the Non-Disclosure Agreement.	PDF
E	Technology Neutral Pro Forma (TNPf)	Completed TNPf Contract	MS Word

## VI. Evaluation of Offers

PG&E will evaluate individual Offers and/or construct different portfolios of Offers that meet the deferral opportunity area need. PG&E’s evaluation will apply “least-cost, best-fit” principles, using quantitative criteria to evaluate the submitted Offers. **Note:** Preference may be given to Offers that meet the full Grid Need.

Quantitative Attributes:

- a) Benefits (Distribution Deferral Value)
- b) Fixed Costs

## VII. Terms for 2022 DIDF SOC Pilot Participation

### VII.A. Agreement by Participant

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Each Participant submitting an Offer shall provide their electronic signature of a duly authorized officer of Participant in the Offer Form. By providing such signature the Participant (a) agrees to be bound by all terms, conditions and other provisions of this 2022 DIDF SOC Pilot and any changes or supplements to it that may be issued by PG&E, and (b) makes the following representations and warranties:

1. Participant has read, understands, and agrees to be bound by all terms, conditions and other provisions of the 2022 DIDF SOC Pilot.
2. Participant has had the opportunity to seek independent legal and financial advice of its own choosing with respect to the 2022 DIDF SOC Pilot and all Appendices to the 2022 DIDF SOC Pilot.
3. Unless otherwise specified in the Offer Form, Participant is not PG&E, an affiliate of PG&E, PG&E Corporation, or any of their affiliates.
4. Participant has obtained all necessary authorizations, approvals and waivers, if any, required of Participant as a condition of: (i) submitting its Offer and, if Participant's Offer is selected; (ii) executing an Agreement with PG&E.
5. Participant is submitting its Offer subject to all applicable laws including, but not limited to, D.17 -02-007, the Federal Power Act and all amendments thereto, and Public Utilities Code section 454.5, and all amendments thereto.
6. Participant represents that it has carefully considered the terms and conditions of its Offer and that it is submitting its Offer in good faith, such that PG&E may reasonably expect Participant to enter into a definitive Agreement, and to negotiate, if requested by PG&E, as provided in Section XI, Execution of Agreement, below.
7. Participant has not engaged in and will not engage in communications with any other Participant in the 2022 DIDF SOC Pilot concerning any terms contained in Participant's Offer, unless explicitly authorized by PG&E, and has not engaged in activities in violation of State or Federal antitrust laws or other unlawful or unfair business practices in connection with the 2022 DIDF SOC Pilot ("Prohibited Communication Activities").

Notwithstanding the foregoing, Participant may engage in communications with its advisors, counsel, experts or employees who have a need to know the content of the communications and have agreed to keep such information confidential (collectively, "advisors"). In addition, Participant may engage in communications with other

Participants submitting an Offer in the 2022 DIDF SOC Pilot and their advisors (“Other Participants”), so long as: (1) such Other Participants are under common ownership and control with Participant; (2) Participant and Other Participants do not engage in Prohibited Communication Activities; and (3) in the event Participant and Other Participant share a common advisor, Participant has, prior to sharing communications with such Other Participant and the common advisor, provided PG&E with (a) notice of such Other Participant and common advisor and (b) an attestation that Participant has not and will not engage in Prohibited Communication Activities with either the Other Participant or the common advisor.

8. If Participant’s Offer is selected and Participant accepts the selection, then Participant agrees to acknowledge acceptance of a Confidentiality Agreement, to negotiate in good faith, and to inform PG&E if the Project that is the subject of the Offer has been submitted into another solicitation with PG&E or any other entity.
9. If a Participant is submitting an Offer jointly with other entities, and the selected Offer, PG&E may require, as part of the selection process, additional representations and warranties, along with additional documentation, from all entities involved in the joint Offer (see Section V.C, Required Information, above).
10. Participant will promptly notify PG&E of any change in circumstances that may affect its ability to fulfill the terms of its Offer, at any time from Offer submission to PG&E’s acceptance of the Offer, as evidenced by PG&E’s execution of an applicable Agreement, or Participant’s withdrawal of the Offer.

A BREACH BY ANY PARTICIPANT OF THE REPRESENTATIONS AND WARRANTIES IN SECTION V.A OF THIS 2022 DIDF SOC PILOT PROTOCOL, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO PG&E UNDER APPLICABLE LAW, IS GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH PARTICIPANT FROM PARTICIPATION IN THE 2022 DIDF SOC PILOT AND, DEPENDING ON THE NATURE OR SEVERITY OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE 2022 DIDF SOC PILOT IN ITS ENTIRETY.

#### **VII.B. PG&E’s Reservation of Rights**

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This 2022 DIDF SOC Pilot is an invitation to submit Offers to PG&E; it does not constitute an offer to buy and creates no obligation to execute any Agreement or to enter into a transaction under an Agreement as a consequence of the 2022 DIDF SOC Pilot. PG&E reserves the right to request information from a Participant at any time during the SOC process. PG&E reserves the right, in its sole discretion, to reject any Offer at any time for any reason, including but not limited to grounds that the Offer does not conform to the terms and conditions of this 2022 DIDF SOC Pilot or contains terms that are not acceptable to PG&E. PG&E also retains the discretion, in its sole judgment, at any time; (a) to formulate and implement new or additional

criteria for the evaluation and selection of Offers; (b) to withdraw PG&E's project selections; or (c) to modify this 2022 DIDF SOC Pilot as it deems appropriate to implement the 2022 DIDF SOC Pilot and to comply with applicable law or other direction provided by the CPUC. In addition, PG&E reserves the right to either suspend or terminate this 2022 DIDF SOC Pilot at any time for any reason. PG&E will not be liable in any way, by reason of such withdrawal, rejection, suspension, termination or any other action described in this paragraph to any third party, including any Participant. PG&E will not reimburse the Participant for its expense of participating in this 2022 DIDF SOC Pilot under any circumstances.

### **VII.C. Safety**

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PG&E is committed to providing safe utility (electric and gas) service to its customers. As part of this commitment, PG&E requires that the Participants recognize safety is of paramount importance. In connection with this Solicitation and executed Agreement, Participants will be required to meet certain safety standards, provide safety information related to the technology for the Project, and provide information regarding safety history, including for the entities that will construct, operate, or maintain the Project(s). Per Appendix B, Participants are required to identify in their Offers known safety-related hazards and risks associated with their Project's technology and Participant's ability to mitigate safety risks and comply with applicable safety-related codes and standards identified by the Participant.

The Agreement will contain specific requirements intended to ensure that the Participant and the entities that construct, operation, or maintain the Project, as applicable, do so in a safe, reliable and efficient manner that protects the public health and safety of California residents, business, employees, and the community. Participants will be responsible for any fees and costs associated with meeting PG&E's safety requirements in the Solicitation and the Agreement.

### **VIII. Confidentiality**

Except with PG&E's prior written consent, no Participant shall disclose its participation in this Solicitation (other than by attendance at any meeting held by PG&E with respect to the Solicitation) or collaborate on or discuss with any other Participant or potential Participant offering strategies or the substance of any Offer, including without limitation the price or any other terms or conditions of any Offer.

Except as provided below, all information and documents clearly identified by Participant as "Confidential" on the page(s) on which confidential information appears shall be considered confidential information. PG&E shall not disclose such information and documents to any third parties except for PG&E's or PG&E Corporation's, officers, directors, employees, agents, counsel, accountants, advisors, or contractors who have a need to know such information and have agreed to keep such information confidential and except as provided below. PG&E may use Confidential Information, consolidated with other market information and not specifically



attributed to the Provider, to analyze or forecast market conditions or prices, for its own internal use or in the context of regulatory or other proceedings.

It is expressly contemplated that materials submitted by a Participant in connection with this 2022 DIDF SOC Pilot will be provided to the CPUC, its staff, the Independent Evaluator, and PG&E's Procurement Review Group ("PRG"). PG&E will seek confidential treatment pursuant to D.08-04-023, General Order 66-D, and Public Utilities Code section 583, with respect to any Participant-supplied non-public RFO information and documents ("Participant's Confidential Information") that are submitted by PG&E to the CPUC. PG&E will also seek confidentiality and/or non-disclosure agreements with the PRG applicable to the Participant's Confidential Information. PG&E cannot, however, ensure that the CPUC will afford confidential treatment to a Participant's Confidential Information, or that those confidentiality agreements or orders will be obtained from and/or honored by the PRG or the CPUC.

With respect to any information or documents provided by the Participant, PG&E shall have the right to disclose to the CPUC, its staff, the Independent Evaluator, the PRG, CAISO, other control area operator or balancing authority and any other entity in order to comply with any applicable law, regulation, or rule or order issued by a court or entity with competent jurisdiction over PG&E, at any time, even in the absence of a protective order, confidentiality agreement or nondisclosure agreement, as the case may be, without notification to the Participant and without liability or any responsibility of PG&E to the Participant.

Once a Participant is selected by PG&E, the Participant must acknowledge acceptance of the Confidentiality Agreement in the form attached as Appendix D and within five (5) business days of notification of their selection in order to continue to participate in the 2022 DIDF SOC Pilot.

## **IX. Selection Notification to Participants**

The Solicitation schedule set forth in Section I, Schedule Overview, may be modified at PG&E's sole discretion. PG&E expects to be able to provide an e-mail notification to Participants whose Offers have been selected and invite each Participant to submit an executed contract with signature. PG&E anticipates notifying those Participants whose Offers were not selected shortly thereafter.

## **X. Execution of Agreement**

By submitting an Offer, Participant agrees, if its Offer is selected by PG&E, that it is prepared to enter into a definitive Agreement consistent with the Agreement submitted. PG&E's evaluation of a Participant's Offer and PG&E's selection of a Participant does not constitute an agreement by PG&E.

## XI. Credit

Upon CPUC Approval of an Agreement with PG&E, the Participant must post collateral to PG&E to mitigate PG&E's risk in the event that the Project is not constructed or placed into commercial operation, or the Participant is otherwise unable to meet the conditions of the Agreement. Participant is required to post collateral in the form of cash or letter of credit from a reputable U.S. bank in the following amounts and by the time discussed below:

Project Development Security: \$40/kW for all resources, due within five (5) Business Days following CPUC approval of the Agreement.

Delivery Term Security: \$40/kw, due by the Online Date. The participant can elect to apply the unused portion of the PDS to DTS and provide additional collateral as needed. The PDS and DTS amounts are determined by multiplying \$40.00 per kW by the contract capacity (in kW) of the DER project.

Performance assurance is a routine commercial requirement intended to create an incentive for the developer to complete the project on time and ensure that the contractual performance of the project is met and maintained over the life of the contract. PDS and DTS amounts are needed as PG&E seeks to mitigate as much as possible any potential losses associated with a counterparty's non-performance. Since these projects are for local distribution reliability, there are real consequences for not coming on-line and delivering as promised. The performance assurance requirement helps mitigate the costs of replacing the defaulted DER contract. In determining the collateral requirements for DER projects PG&E takes into account many factors such as:

- Any upfront payments by PG&E for development of the project and the ability to collect back those payments if the project fails
- If there are no prepayments but project does not get developed, or is delayed, the costs necessary to correct the non-performance
- If the project is needed to address a regulatory mandated program and the project fails or is delayed, penalties that could be assessed
- If the project is developed and is operating, the potential losses if the project fails to continue to operate or is not operating per requirements

As shown above, there is a variety of uncertainties that needs to be addressed as part of the design of the credit requirements. Over time the cost of replacement as a proxy for damages can change significantly higher or lower. For this reason, requirements for the development and delivery term securities can vary over time. There are additional considerations such as cost of replacement of emerging technologies such as energy storage or the costs associated with a temporary solution based upon immediate need at the time of default plus the costs associated with a longer-term solution. Although It is difficult to determine the replacement costs prior to default, and it is possible that the amount PG&E is requiring may not be sufficient

to cover those costs; the \$40/kW for PDS and DTS should help mitigate potential losses should a DER project fail. PG&E may increase or decrease the requirements for future solicitations if market conditions or costs of various products were to further fluctuate in the future.

## **XII. Waiver of Claims and Limitations of Remedies**

Except as expressly set forth in this Protocol, by submitting an Offer, Participant knowingly and voluntarily waives all remedies or damages at law or equity concerning or related in any way to the Solicitation, the Solicitation Protocol and/or any attachments to the Solicitation Protocol (“Waived Claims”). The assertion of any Waived Claims by Participant may, to the extent that Participant’s Offer has not already been disqualified, automatically disqualify such Offer from further consideration in the Solicitation or otherwise.

By submitting an Offer, Participant agrees that the only forums in which Participant may assert any challenge with respect to the conduct or results of the Solicitation is through the Alternative Dispute Resolution (“ADR”) services provided by the CPUC pursuant to Resolution ALJ 185, August 25, 2005. The ADR process is voluntary in nature, and does not include processes, such as binding arbitration, that impose a solution on the disputing parties. However, PG&E will consider the use of ADR under the appropriate circumstances. Additional information about this program is available on the CPUC’s website at the following link:

[http://docs.cpuc.ca.gov/published//Agenda\\_resolution/47777.htm](http://docs.cpuc.ca.gov/published//Agenda_resolution/47777.htm)

Participant further agrees that the sole basis for any such challenge shall be that PG&E allegedly failed in a material respect to conduct the Solicitation in accordance with this Protocol, and the exclusive remedy available to Participant in the case of such a challenge shall be an order of the CPUC that PG&E again conduct any portion of the Solicitation that the CPUC determines was not previously conducted in accordance with the Solicitation Protocol. Participant expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs, and/or attorney’s fees. Unless PG&E elects to do otherwise in its sole discretion during the pendency of the ADR process, the Solicitation and any related regulatory proceedings related to the Solicitation, will continue as if the challenge had not been filed, unless the CPUC has issued an order suspending the Solicitation or PG&E has elected to terminate the Solicitation.

Participant agrees to indemnify and hold PG&E harmless from any and all claims by any other Participant asserted in response to the assertion of a Waived Claim by Participant or as a result of a Participant’s challenge through the ADR process resulting from the Solicitation.

Except as expressly provided in this Protocol, nothing herein including Participant’s waiver of the Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of PG&E.

### **XIII. Termination of the 2022 DIDF SOC Pilot-Related Matters**

PG&E reserves the right at any time, in its sole discretion, to terminate the 2022 DIDF SOC Pilot for any reason whatsoever without prior notification to Participants and without liability of any kind to, or responsibility of, PG&E or anyone acting on PG&E's behalf. Without limitation, grounds for termination of the 2022 DIDF SOC Pilot may include the assertion of any Waived Claims by a Participant or a determination by PG&E that, following evaluation of the Offers, there are no Offers that provide adequate ratepayer benefit.

PG&E reserves the right to change the Offer evaluation criteria for any reason, to terminate further participation in this process by any Participant, to accept any Offer or to enter into any definitive Agreement, to evaluate the qualifications of any Participant, and to reject any or all Offers, all without notice and without assigning any reasons and without liability to PG&E or anyone acting on PG&E's behalf. PG&E shall have no obligation to consider any Offer.

In the event of termination of the 2022 DIDF SOC Pilot for any reason, PG&E will not reimburse the Participant for any expenses incurred in connection with the 2022 DIDF SOC Pilot regardless of whether such Participant's Offer is selected, not selected, rejected or disqualified.