**Contract for Capacity**

**Between**

**(Name of Capacity Source Provider)**

**and**

**Electric Reliability Council of Texas, Inc.**

This contract for the provision of capacity (“Contract for Capacity”), effective as of [START DATE], is entered into by and between [CAPACITY SOURCE PROVIDER’s NAME], (“Provider”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).

Recitals

WHEREAS:

1. ERCOT has identified an elevated reliability risk associated with the possibility of extreme weather in the 2023-24 winter Peak Load Season;
2. Paragraph (4) of ERCOT Protocols Section 6.5.1.1, *ERCOT Control Area Authority*, provides that ERCOT may exercise its authority to procure additional capacity to prevent an anticipated Emergency Condition relating to serving Load in the current or next Season;
3. On October 2, 2023, ERCOT issued a Request for Proposals for Contracts for Capacity (“RFP”) seeking proposals for Entities to provide Generation Resource or Demand Response capacity in the 2023-24 winter Peak Load Season;
4. Provider submitted a proposal in response to ERCOT’s RFP;
5. Provider owns or otherwise represents the Resource that was offered in Provider’s proposal and is the subject of this Contract for Capacity (“the Capacity Source”); and
6. Provider and ERCOT wish to establish the terms and conditions by which ERCOT and Provider will discharge their respective duties and responsibilities with respect to the Capacity Source.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, ERCOT and Provider (the “Parties”) hereby agree as follows:

1. Capitalized terms used in this Contract for Capacity have the meanings assigned to them in the ERCOT Protocols.
2. Any notice required to be provided by Provider to ERCOT under this Contract for Capacity shall be provided in writing to ERCOT’s General Counsel. Any notice required to be provided by ERCOT to Provider under this Contract for Capacity shall be provided in writing to any representative of Provider identified in Provider’s response to the RFP or to any other person designated by Provider by way of written notice to ERCOT’s General Counsel.
3. Provider agrees to make available for ERCOT’s use the Capacity Source described in Attachments 1 and 2 to this Contract for Capacity in accordance with the ERCOT Protocols, the October 2, 2023 Contract for Capacity Governing Document (“Governing Document”), and the October 2, 2023 RFP, which are hereby incorporated by reference into this Contract for Capacity.
4. Provider and ERCOT will abide by and comply with the requirements set out in the Governing Document and the RFP.
5. This Contract for Capacity commences on the start date identified in Attachment 1, subject to any delay to the start date that may be subsequently approved in writing by ERCOT.
6. Except as provided in paragraph G, below, this Contract for Capacity terminates upon the completion of all obligations under the terms of this Contract for Capacity.
7. In the event ERCOT determines that Provider has materially failed to comply with its obligations under this Contract for Capacity, including without limitation requirements set out in the ERCOT Protocols, the Governing Document, and the RFP, ERCOT may, in its sole discretion, terminate the Contract for Capacity upon seven days’ written notice. This remedy is independent of any other remedy ERCOT may have under the ERCOT Protocols, the Governing Document, and the RFP.
8. Any dispute concerning payments or charges arising under the terms of this Contract for Capacity shall be submitted by Provider to ERCOT through the Settlement and billing dispute process described in ERCOT Protocols Section 9.14, Settlement and Billing Dispute Process. Any dispute concerning the outcome of that process shall be subject to the Alternative Dispute Resolution process described in ERCOT Protocols Section 20, Alternative Dispute Resolution Procedure.
9. Any dispute by Provider unrelated to payments or charges arising under the terms of this Contract for Capacity shall be submitted to the Alternative Dispute Resolution process described in ERCOT Protocols Section 20.
10. NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A DEFAULT UNDER THIS CONTRACT FOR CAPACITY, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.
11. Nothing in this Contract for Capacity limits the authority of the Public Utility Commission of Texas to assess penalties against Provider or to take any other action permitted by law due to any failure by Provider under this Contract for Capacity.
12. All provisions in Section 11 of the ERCOT Standard Form Market Participant Agreement (ERCOT Protocols, Section 22, Attachment A) are hereby incorporated into this Contract for Capacity by reference. Where those provisions refer to “Agreement,” they should be understood to also apply to this Contract for Capacity; where those provisions refer to a “Party,” they should be understood to refer to the parties to this Contract for Capacity; where those provisions refer to “Participant,” they should be understood to refer to Provider.
13. This Contract for Capacity may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

SIGNED, ACCEPTED, AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Contract for Capacity.

Electric Reliability Council of Texas, Inc.:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Provider:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTACHMENT 1**

Section 1. Capacity Source Identification

1. Capacity Source type:

* Generation Resource
* Demand response

1. Capacity Source name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Net capacity to be provided to ERCOT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Service start date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. Awarded DR Category (1, 2, 3, or 4): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Section 2. Payment Calculation

1. Standby Payment
2. Hourly standby payment: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Total hours of obligation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. Total standby payment for Contract Period: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. Total cost of capital expenditures included in standby payment: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. Incentive Factor: \_\_\_ %