



REQUEST FOR PROPOSALS

Clean Energy Solutions for the City of Cincinnati's Electricity Load

DUE DATE: July 18, 2024 before 4:00 PM ET

RFP NUMBER: RFP063_2024

ACCEPTANCE PLACE: <https://cincinnati-oh.bonfirehub.com/>

All proposals must be submitted electronically via the City's Bonfire portal at the above link. Responses submitted by hard copy, mail, or e-mail will not be accepted. See "RFP Submissions" for more details.

Requests for information related to this solicitation should be directed to:

Maria Gadomski, Buyer, at maria.gadomski@cincinnati-oh.gov

Issue Date: 6/12/2024

NOTE: The City publishes information on the City of Cincinnati Internet web site at www.cincinnati-oh.gov, which includes the Cincinnati Municipal Code (CMC) and the information concerning the rules and regulations governing the City's Small Business Enterprise (SBE) Program and Minority/Women Business Enterprise (M/WBE) Program. Offerors may register as a City vendor online at <https://www.cincinnati-oh.gov/purchasing/vendor-registration/vendor-registration/>.

**REQUEST FOR PROPOSALS FROM
THE CITY OF CINCINNATI**
Clean Energy Solutions for the City of Cincinnati's Electricity Load

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I. REQUEST

INTRODUCTION

The City of Cincinnati, Ohio, (hereinafter referred to as "City") is issuing this Request for Proposals (hereinafter "RFP") pursuant to the provisions of the Cincinnati Municipal Code (CMC), Chapter 321 and City Manager Administrative Regulation 23 for Professional Services, from parties (hereinafter "Offerors"). The Offeror shall provide proposals and services that deliver clean energy generation and/or energy storage installations to the City to offset the City's electricity load. This may be met with a combination of off-site solutions.

GENERAL BACKGROUND AND INFORMATION

The City of Cincinnati has committed to 100% clean energy for City operations by 2035 and to achieving 100% carbon neutrality community wide by 2050. To meet these goals, the City is seeking knowledgeable, experienced, and independent clean energy and energy storage development firms who can provide turnkey solution(s).

SCOPE OF SERVICES

Offerors may respond to one or all of the Options outlined below. Offerors must clearly state which development Option(s) they are providing to the City of Cincinnati. Refer to Exhibit B for more detailed descriptions of each of the three options. Each Option may have additional specific criteria attached to it that the Offeror is required to meet and is further described in this RFP. The Offeror must have experience developing clean energy generation and energy storage facilities for large energy users such as local governments. The information outlined in Section II: Proposals is required to be included in the response in order that an assessment may be made of the Offeror's overall approach.

Option 1 – Center Hill Landfill

Offeror shall provide off-site clean energy generation or storage facilities located on the closed Center Hill Landfill. The City currently owns the property and it is within the City of Cincinnati. The City would like to preserve the ability to utilize potential funding from U.S. EPA's Solar for All program, which carries a size limitation of no more than 5 MW AC nameplate capacity. Additional information on this site can be found in Appendix 2.

Option 2 – Off-Site, In or Adjacent to City

Offeror shall provide off-site clean energy generation or storage facilities located on public or private property within or bordering the City of Cincinnati to more directly provide clean energy to the portion of the grid serving its residents. Under this option the City would like to explore the practicality of using funds from the U.S. EPA's Solar for All program (which carries a maximum nameplate capacity requirement of no more than 5 MW AC). The City is open to different ownership structures including City-owned, a PPA, or other third-party ownership structures. However, there is no limit to the size of the proposed project nor a requirement to use specific clean energy technology. The City is interested in using these resources to potentially supply electricity for both City Operations and the City's residential electricity aggregation program.

Option 3 – Off-Site, Large Scale

Offeror shall provide clean energy generation and/or storage from large off-site facilities on property not owned by the City. These facilities must be located regionally close to the City of Cincinnati. Regionally close is defined as within the state of Ohio or within 100 miles of the City of Cincinnati's City Hall. It is acceptable for an off-site facility to be shared by more than one off taker, so long as the City's portion of the project is clearly distinguishable. The City is interested in using these resources to potentially supply electricity for both city operations and the City's electricity aggregation program.

TERM

The term of this Agreement shall commence on the effective date of the Agreement. Term for facilities developed for City ownership are expected to last up to five years (inclusive of design, construction, and placement into service). Terms for any power purchase agreement or similar contractual mechanisms are anticipated to last 10-20 years.

TIMETABLE

Milestones for the process are:	Date
1. Release of RFP	06/12/2024
2. Pre-Submission Meeting via Microsoft Teams (at 2:00 PM ET; Optional)	06/25/2024
3. Deadline for Written Questions (due by 11:00 AM ET)	07/02/2024
4. Deadline for Offerors to Submit Initial Proposals (due by 4:00 PM ET)	07/18/2024
5. Notification of Shortlisting	08/28/2024*
6. Site visit at Center Hill Landfill for Option 1 Shortlisted Offerors (Optional)	September*
7. Deadline for Additional Written Questions (due by 11:00 AM ET)	09/25/2024*
8. Deadline for Shortlist Offerors to Submit Final Proposals (due by 4:00 PM ET)	10/10/2024*
9. City initiated negotiations with preferred Offeror(s)	11/14/2024*
10. Contract(s) awarded and signed	1/31/2025*

*All starred dates are estimated and subject to change. An updated schedule will be provided with shortlisting notification and/or addendum.

QUESTIONS CONCERNING THE RFP

All questions or requests for clarification related to the initial proposal must be submitted in writing no later than **July 2, 2024, at 11:00 AM ET.**

Additional written questions from shortlisted Offerors must be submitted in writing no later than **September 25, 2024, at 11:00 AM ET.**

Questions and clarification requests should be submitted by email to

maria.gadomski@cincinnati-oh.gov or through the Bonfire portal at <https://cincinnati-oh.bonfirehub.com/>.

Questions received after the designated period may not be considered. Any response made by the City will be provided in writing via Addendum.

Offerors are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications regarding this RFP must be made to the City's contact person, or any other City representatives designated by the Chief Procurement Officer in writing.

PRE-SUBMISSION MEETING

The City will hold a non-mandatory pre-submission meeting **June 25, 2024, at 2:00 PM ET via Microsoft Teams.** The potential Offeror must RSVP via email to Maria Gadomski at maria.gadomski@cincinnati-oh.gov prior to the meeting to receive a virtual invitation.

COMMUNICATIONS WITH OFFERORS

Starting on the date a solicitation is issued and expiring on the date the contract is awarded, actual and prospective Offerors/offerors (including their representatives or persons acting on their behalf) are prohibited from contacting members of City Council or any City employees other than the Buyer of record, in any manner regarding the issued RFP or RFQ. Actual and prospective respondents or Offerors include those respondents or Offerors who have received notice that they have not been chosen as finalists for any solicitation. Actual and prospective Offerors/offerors (including their representatives or persons acting on their behalf) are expressly prohibited from offering, presenting or promising gratuities, favors, or anything of value to any member of an evaluation committee or any appointed or elected official or employee of the City of Cincinnati, their families, or staff members.

Notwithstanding the foregoing, the following types of communication only are exempt and shall be permitted by respondents and Offerors during an open procurement process:

1. Actual and prospective Offerors/offerors formal response to the RFP;
2. Communications publicly made during the official pre-bid conference;
3. Written requests for clarification during the period officially designated for such purpose by the Buyer; and
4. Communications during an oral interview, scheduled at the request of and for the benefit of the City's evaluation committee, if any.

During the no contact period, the Buyer of record shall serve as the sole point of contact for any actual or prospective respondents. Any contact other than with the Buyer of record during the no contact period shall be justification for rejection of the violator's proposal.

PREVENTING UNFAIR COMPETITIVE ADVANTAGES

Fairness and transparency in the procurement process require that Offerors competing for a specific project do not derive a competitive advantage from having provided services related to the project/contract/work assignment in question. To that end, pursuant to Administrative Regulation No. 62 and the City's RFP Manual, a firm, and each of its affiliates, hired to provide services for the preparation or implementation of a project shall be disqualified from any subsequent procurement solicitation to provide goods, works, or services resulting from or directly related to the firm's services for such preparation or implementation, unless an

exception is made by the City Manager in writing.

RFP SUBMISSIONS (Public Records Requirements)

The Offeror shall develop a written response to this RFP structured to comply with Section II of this RFP.

While each Proposal will be considered objectively, the City assumes no obligation to accept or to act on any Proposal. The City assumes no liability for any costs incurred in preparing or submitting any Proposal.

An electronic Proposal **must** be submitted through the City's Bonfire portal at <https://cincinnati.bonfirehub.com/>. **Responses submitted by hard copy, mail, or e-mail will not be accepted.**

Important notes:

- Logging in and/or uploading your file(s) does not mean your response is submitted.
- Offerors must successfully upload all file(s) and must click the submit button before closing time.
- You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission. This will confirm that you have successfully submitted your Statement of Qualifications.
- If a requested file is mandatory, you will not be able to complete your submission until the requirement is met.
- Uploading large documents may take time, depending on the size of the file(s) and your internet connection speed.
- Please note the type (.doc, .pdf, etc.) and number of files (one only or multiple) allowed. The maximum file size for upload is 1,000 MB. Please do not embed any documents within your uploaded files as they will not be accessible or evaluated.

For technical questions or issues related to your submission, please contact Bonfire directly at support@gobonfire.com or 1 (800) 354-8010, ext. 2. The support team is available Monday-Friday, 8:00 a.m. – 8:00 p.m. ET. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>.

The **deadline** for responding to this RFP and for submitting all related materials is:

Thursday, July 18, 2024 at 4:00 PM ET
Late Proposals will not be accepted.

Shortlisted Offerors will be given the opportunity to provide more detailed project and cost estimates. The tentative **deadline for shortlisted proposals** responding to this RFP is:

Thursday, October 10, 2024 at 4:00 PM ET
Late Proposals will not be accepted.

Proposals can be withdrawn at any time, if requested in writing, until the deadline date, at which time proposals will be considered firm and become the property of the City and will not be returned. Offeror must login to Bonfire to withdraw their submission through the system. If resubmitting, Offeror is responsible for submitting prior to the closing time and receiving a new

email confirmation receipt. By responding to this RFP, Offerors waive any challenge to the City's decisions.

By submitting this Proposal, Offeror acknowledges that the City is governed by the Ohio Public Records Laws. Notwithstanding any statement to the contrary, the City's handling of any confidentiality obligations is subject to the limitations of this paragraph. Offeror's Proposal may be subject to disclosure under the Ohio Public Records Laws. The City shall have no duty to defend the rights of Offeror or any of its agents or affiliates in any records requested to be disclosed. Confidential proprietary material must be clearly identified by the Offeror as "trade secret" and easily separable from the rest of the Proposal. The Offeror recognizes and agrees that the City is not responsible or liable in any way for any losses that the Offeror may suffer from the disclosure of information or materials to third parties.

Upon receipt of a public records request for which any document clearly marked by Offeror as "Trade Secret" is responsive, the City will notify Offeror of its intent to release records to the requestor. Offeror shall have a maximum of five (5) business days beginning with the date it receives notification to respond to the City by either accommodating the requestor or pursuing legal remedies to stop the City's release of requested information. Said notification shall relieve the City of any further obligation under any claim of Offeror or any of its agents or affiliates in any jurisdiction in connection with the disclosure of such records. Offeror and its agents and affiliates shall have the right to pursue legal and/or equitable remedies to stop or limit disclosure at their sole expense.

Offerors submitting proposals in response to and consistent with this RFP shall submit the required or miscellaneous forms in accordance with Section IV of the RFP

SELECTION PROCESS AND AWARD CRITERIA

The City's Selection Committee will review the qualifications and proposals based on the rating categories below.

Initial Proposal Points	Rating Category
20 points	Compliance with the scope of services
20 points	Company history/experience
10 points	Financial strength & stability
40 points	Cost/value – including transparency of all fees
10 points	Other advantages to the City
Pass/Fail	Exceptions to the RFP
Total: 100 points	

All shortlisted proposals will be reevaluated for the Compliance with the Scope of Services criteria and the Cost/Value criteria.

Shortlist Proposal Points	Rating Category
20 points	Compliance with the scope of services
40 points	Cost/value – including transparency of all fees
10 points	Other advantages to the City
Pass/Fail	Economic Inclusion Goals

Pass/Fail	Exceptions to the RFP
Total: 70 points	

Selection of a preferred Offeror(s) and subsequent award of contract will comply with City Administrative Regulation No. 23 and the Cincinnati Municipal Code (CMC). The City will award a contract to the successful Offeror(s) considering the total requirements for this procurement and what is “Most Advantageous to the City” in accordance with CMC Chapter 321.

The City’s Selection Committee will review and evaluate all properly submitted proposals that are received on or before the deadline. The City may meet with finalists for presentations and questions regarding individual proposals. The City may negotiate with Offerors regarding the details of their proposals. The Selection Committee will submit its finding to the Chief Procurement Officer as to which proposal(s) is/are “Most Advantageous” to the City taking into consideration price and evaluation factors set forth below. The Chief Procurement Officer will review the Selection Committee’s findings and will then submit a recommendation to the City Manager who will make the award for the City pursuant to CMC Section 321-65.

The City reserves the right to ask for additional information and clarification from or about any or all of the Offerors. The City may require selected Offerors to make an oral presentation of their proposals.

The following criteria will be used by the City when evaluating the proposals:

1. ***Compliance with the Scope of Services.*** Initial project information provides detailed estimated kWh generated or storage by the proposed Facilities, design detail and equipment selection, warranties, and an initial timeline for development and installation, including all necessary assumptions (e.g., solar resource, system performance and availability, maintenance down time, permitting status and timeline, connection status and timeline, mean time between failures, efficiency of the proposed system, efficiency losses, etc.). Discussion of the anticipated project terms. For projects that are already underway, the City will review the site location and documented progress to date, including secured rights, permits, executed agreements, etc.
2. ***Exceptions to this RFP.*** If the firm does take exception to any portion of the RFP, the specific portion of the RFP to which exception is taken shall be submitted to the City in the Proposal. This is considered a pass/fail evaluation criterion to which the City may determine the Proposal is non-responsive.
3. ***Company History/Experience.*** Offeror’s project team qualifications and recent and related experience developing, owning, operating, and maintaining similar projects that meet performance specifications over significant terms. Offeror’s relevant experience in Ohio or areas within PJM and experience with similar types of government / municipal facilities in metropolitan locations managed by the Offeror over the last five years. Offeror’s experience in delivering contracts and projects on time and on budget. Ability to meet required construction and regulatory approval milestones. Offeror’s approach to encouraging investment in clean energy generation and energy storage by industries and businesses within the region.
4. ***Financial Strength & Stability.*** Information provided indicates the Offeror has the financial strength in terms of capital and liquid assets sufficient to successfully complete

the projects listed in this RFP. Stability of the Offeror in terms of services, professional capabilities, construction experience and overall capabilities.

5. **Cost/Value.** For options proposing City ownership: project costs will be evaluated. For options proposing third party ownership: PPA type (direct/virtual/other), PPA price (\$ per KWH), contract terms, contract length, buyout cost, commencement deadline, guaranteed generation, exclusions, and cost for routine maintenance.
6. **Economic Inclusion.** A project wage determination will be made once project details are available. Offeror shall be a City of Cincinnati-certified SBE/MBE/WBE or committed to partnering/subcontracting with City-certified SBE/MBE/WBEs.

Step 1: Initial Submission

In the first step of this solicitation process, interested parties are invited to submit proposals in accordance with the guidelines delineated in this RFP. These proposals should address the requirements, specifications, and objectives outlined herein.

Step 2: Additional Diversity and Inclusion Goals

Following the evaluation of submissions received in Step 1, selected respondents will be invited to participate in the second step of this solicitation process based on initial scoring from evaluation committee members. In the subsequent phase, specific diversity and inclusion goals will be introduced and integrated into the evaluation criteria. Respondents advancing to this stage will be provided with detailed requirements regarding the incorporation of diversity and inclusion initiatives into their proposals.

All work to be subcontracted must be submitted on the applicable forms to be considered toward meeting subcontracting goals. Failure to provide an “MBE/WBE Inclusion Packet” or a notarized commitment to meet the subcontracting goals may result in proposal rejection as non-responsive to the requirements of this RFP.

In the second step of this solicitation process, the evaluation of proposals will encompass not only technical merit and cost-effectiveness but also the extent to which respondents demonstrate a commitment to diversity and inclusion. This may include, but is not limited to, strategies for promoting diversity within the respondent's workforce, supplier diversity initiatives, and plans for ensuring equitable access to opportunities arising from the contract.

By participating in this two-step solicitation process, respondents acknowledge and agree to the inclusion of diversity and inclusion goals in the subsequent phase of evaluation. This approach underscores the City's commitment to promoting diversity, equity, and inclusion across all facets.

7. **Other Advantages to the City.** Examples include but are not limited to, technology innovations, ancillary energy services, programs that increase local employment opportunities and economic impact, etc. The City has a preference for projects that take advantage of Inflation Reduction Act incentives such as domestic content, siting in energy communities, prevailing wage and apprenticeships, and more.

PROCESS FOR ENTERING INTO AGREEMENT

The Offeror(s) whose proposal is/are found to be the "Most Advantageous" to the City of Cincinnati will be offered the opportunity to enter into an Agreement with the City. The scope, terms and conditions of that Agreement shall be in substantial conformance with the terms, conditions and specifications described in this RFP and with the proposal that is submitted by the Offeror whose proposal is found to be the "Most Advantageous" to the City.

The Offeror should be prepared to begin contract negotiations upon submitting a proposal. If the Offeror is not able to begin contract negotiations, the City may disqualify that Offeror.

The City reserves the right to negotiate the Agreement to include any portion or portions of the services covered by this RFP. The City reserves the right to reject any and all proposals in total or by Option.

The City reserves the right to make one total award, one award for each section, multiple awards, or a combination of awards, and to exercise its judgment concerning the selection of one or more proposals, the terms of any resultant agreement(s), and the determination of which, if any, proposal(s) is Most Advantageous to the City, as a result of this RFP process.

ADDITIONAL INFORMATION REQUIRED BY THE CITY

The City reserves the right to check all references furnished and will consider responses received in determining the award.

The City reserves the right to perform investigations as may be deemed necessary by the City to assure that competent persons will be and are utilized in the performance of the Agreement and to verify the accuracy of the contents of proposals.

The City publishes information on the City of Cincinnati web site at www.cincinnati-oh.gov, which includes the Cincinnati Municipal Code.

CONTRACTOR REGISTRATION

The Offeror awarded the contract shall be a registrant under Vendor Self Service (VSS) at time of award. Go to <https://vss.cincinnati-oh.gov> to register

CHANGES AND ADDENDA TO RFP DOCUMENTS

It shall be the Offeror's responsibility to make the inquiry as to changes and addenda issued. All such changes or addenda shall become part of the contract and all Offerors shall be bound by such changes or addenda.

Offerors may download all addenda and other RFP documents from the City's Vendor Self Service portal (<https://vss.cincinnati-oh.gov>) and should frequently return to the site to monitor for project specific updates and addenda.

TAXPAYER IN GOOD STANDING

The City of Cincinnati requires that all vendors awarded a contract to do business with the city be a taxpayer in good standing.

Offerors responding to solicitations will be required to submit a letter from the City's Income Tax Division via Andrea Donegan at andrea.donegan@cincinnati-oh.gov verifying good standing. Letters must be submitted with the Proposal in order to be considered responsive. Proposals which do not include the Letter will be rejected as non-responsive in accordance with the Cincinnati Municipal Code Chapter 321.

To request your taxpayer in good standing verification letter, please contact Andrea Donegan at Andrea.Donegan@cincinnati-oh.gov or at 513-352-3873. Please allow 2 business days for processing after receipt of your request.

Equal Employment Opportunity Program: A summary of the City's Equal Employment Opportunity Program is included in the RFP Section III. Equal Employment Opportunity (EEO) Form (DEI147) is referenced only for information purposes in the RFP Section IV. It does not have to be signed or returned with Proposals. The successful Offeror will be required to complete the DEI 147 at contract execution.

Non-Discrimination Policy: A summary of the City's Non-Discrimination Policy is referenced in the RFP Section IV.

OFFEROR'S COVENANT OF NON-DISCRIMINATION

Pursuant to the City of Cincinnati's policy of non-discrimination, specifically in its purchasing and contracting practices, **by signing this proposal** and as a condition of contract award, the Offeror covenants, represents and warrants that:

- The Offeror will not discriminate against small business enterprises on the basis of race, ethnicity, gender or disability in the process of contracting, subcontracting and purchasing;
- The Offeror will use good faith efforts to promote opportunities for SBEs and M/WBEs to participate in and compete for opportunities to the extent of their availability and capacity;
- If awarded the contract, the Offeror will submit to ongoing monitoring by and submittal of reports to the City's Department of Economic Inclusion;
- The Offeror will submit to investigations and/or audits by the Department of Economic Inclusion in connection with routine monitoring or as a result of specific allegations of discrimination.

S/M/WBE SUBCONTRACTING

Step 1: Initial Submission

There is no specific S/M/WBE subcontracting goal for this project currently. However, the City desires that opportunities for City-certified SBEs, WBEs, and/or MBEs be generated to the maximum extent practicable. Offerors should provide an overview of how they plan to achieve potential subcontracting goals.

Step 2: Additional Subcontracting Goals

Following the evaluation of submissions received in Step 1, selected respondents will be invited to participate in the second step of this solicitation process based on initial scoring from evaluation committee members. In the subsequent phase, specific diversity and inclusion goals will be introduced and integrated into the evaluation criteria. Respondents advancing to this

stage will be provided with detailed requirements regarding the incorporation of diversity and inclusion initiatives into their proposals.

All work to be subcontracted must be submitted on the applicable forms to be considered toward meeting subcontracting goals. Failure to provide an “MBE/WBE Inclusion Packet” or a notarized commitment to meet the subcontracting goals may result in proposal rejection as non-responsive to the requirements of this RFP.

Offerors subcontracting any portion of the work must complete, sign and return the appropriate economic inclusion forms found in the “No Goals Inclusion Packet” with your proposal. The “No Goals Inclusion Packet” which includes the applicable forms to be completed and included with the proposal is available at the following webpage:

<http://cincinnati.gov/inclusion/forms/subcontractor-inclusion-goal-packages-for-bids-rfps/>.

When on the aforementioned webpage, please click on the weblink called “No Goals Inclusion Packet” to download and access the appropriate forms.

Offeror is responsible for verifying that each M/S/WBE to be used on a contract is certified by the DEI as of the proposal due date. The M/S/WBEs named must be certified to provide the services that they are listed to perform, and the services must be required as part of the work on this contract. A directory of certified M/S/WBEs is available online at <https://cincinnati.diversitycompliance.com> or at the offices of DEI.

VENDORS INELIGIBLE TO CONTRACT OR SUBCONTRACT WITH THE CITY

The City maintains a list of Vendors Debarred from Contracting or Subcontracting with the City may be accessed at: <http://www.cincinnati-oh.gov/purchasing> or may be furnished in other form upon request to the Chief Procurement Officer. The City will not contract with any Bidder on the list. It is each Offeror’s responsibility to verify that each subcontractor it proposes to use is an eligible firm or person. The City will not approve a subcontractor whose name appears on the list.

II. PROPOSALS

CONTENT AND FORM OF PROPOSALS

The Proposal shall include, but is not limited to, the following and must be presented in the following order. If your proposal includes multiple projects and/or multiple options, please complete sections 10 through 15 for each project.

1. Letter of Proposal Submission
2. Exceptions to this RFP

Company History & Experience

3. Company Background & Information
4. Qualifications
5. Past-Project Experience & References

Financial Strength & Stability

6. Financial Capacity
7. Contractual

8. Required Forms

Please include the following sections for each project or option proposed:

Scope of Services

- 9. Executive Summary
- 10. Technical Proposal

Cost/Value

- 11. Cost of Services
- 12. Economic Inclusion & Project Labor Agreement
- 13. Knowledge and Understanding of Local Environment
- 14. Other Advantages to the City

Offerors should ensure that their proposals address all aspects of the Scope of Services outlined in Exhibits A and B, as well as requests for specific documentation or methods. The Offeror shall sufficiently address each item presented in the RFP in accordance with the directions found herein. Each item shall be addressed or the response may be judged as “non-responsive.” Answers shall be clear, sufficiently detailed and specific to the City. Responses shall be based only on the material contained in the RFP.

Sections 1-9 shall be limited to a total of 20 one-sided pages (8 ½ x 11). Each project submitted shall be limited to an additional 15 one-sided pages. Proposals that do not adhere to these guidelines may not be considered. Proposals shall be scored separately for each project proposed. Points are not additive across options. Documentation required by Section IV, Required and Miscellaneous Forms, shall be excluded from the page limit. Documentation required by Section 7, Contractual (sample contract) shall be excluded from the page limit. Resumes, PUCO certifications, and CRES registrations may be included as attachments and do not count toward the page limit.

1. LETTER OF PROPOSAL SUBMISSION

Offeror will submit a letter of proposal and introduction, including company name, company address, company website and email address, telephone and fax number of the contact person for this Project. The cover letter should present the Offeror's understanding of the project, as well as a summary of the approach to be undertaken to perform the Services. The cover letter should explicitly state that the supplier has read and understood the entire contents of this RFP, that the information provided in the Proposal is true and accurate, and that if awarded the contract, the supplier is obligated to perform the proposed services. The letter must be signed by a person with binding authority for the company

2. EXCEPTIONS TO THIS RFP

Proposals shall include a statement indicating compliance with the “Terms and Conditions” presented in Section III, page 20 of this RFP or a statement indicating any exceptions thereto subject to negotiations. If Offeror believes that any of the provisions addressed under “Terms and Conditions” does not apply to their Proposal, e.g. Prevailing Wage or Living Wage, provide an explanation as to why. Although “Exceptions to this RFP” is an evaluation criterion, an exception may be determined by the City to be of such a material nature that such exception may cause the Proposal to be considered non-responsive.

3. COMPANY BACKGROUND & INFORMATION

This section should give a brief overview of the company and provide the following information:

- Company name and any DBAs (Doing Business As), business address (include local office and/or headquarters), and website.
- Year established (include former names and year established, if applicable). Number of employees, services offered, and locations of main and local offices.
- Number of years the Offeror has been active in the clean energy generation and/or energy storage field.
- Type of ownership and parent company, if applicable.
- Offeror shall provide the same information as above for any subcontractors or teaming entities and explain their role in the contract. The Offeror must assume all responsibility for the work, including the work of any subcontractors.

4. QUALIFICATIONS

The Offeror's response must speak clearly to the qualifications outlined in this RFP and provide information that clearly demonstrates the ability of the Offeror to fully deliver the Scope of Services required for a successful project. Given the potential investment, the City is interested in establishing a relationship with a firm or team of firms that supplies the following information:

- Demonstrated extensive experience in the successful installation and management of multiple, large commercial or public clean energy generation and/or energy storage facilities, preferably in Ohio, PJM system and/or Duke Energy Ohio System.
- Relevant licenses or special qualifications pertaining to clean energy technologies (i.e. NABCEP, licensed professional engineer, certified energy manager, project management professional, certified by State of Ohio as CRES, etc.).
- Demonstrated knowledge of energy markets, regulations, and incentives.
- Demonstrated knowledge of Facility financing, design, construction, operation, and maintenance.
- Proven track record of customer service.
- Local office or project manager.
- Security protocols.

Each Offeror shall furnish a copy of its PUCO Certification as a CRES provider in the Duke Ohio Service area and represent that it is in good standing with the State of Ohio.

Each Offeror shall furnish a copy of its Duke Energy Ohio Registration. Also, each Offeror shall provide a statement of current ability to deliver electric generation to the delivery node for Duke System (state this node) along with current ability to comply with the Duke Energy Ohio Certified Supplier Tariff. Furthermore, the City shall only consider Offerors that take title to the electricity sold.

5. PAST-PROJECT EXPERIENCE & REFERENCES

Past-Project Experience: Offeror shall include a brief description of past clean energy generation or energy storage projects/programs that are similar in nature to those

expected to result from this RFP. The description of each project/program should include:

- The project name.
- Location.
- Project size (project capacity in kW).
- Project cost.
- Project type – turnkey or third-party energy sales.
- Year completed.
- Name of project manager.
- Name of client contact.
- Brief physical description of the project system (equipment manufacturer, model, etc.).
- A brief discussion of any specific challenges and how they were overcome.
- Overview of project permitting.
- Cost savings and cash flow realized by Customer (host) each year along with electric cost rate information (\$/MWh).

References: Offeror shall provide contact information for a minimum of five recent (within the past 5 years) references for clean energy generation or energy storage projects, with a minimum of two being local governments, that can discuss their experience with the Offeror. References may be included in the past-project experience discussion. Provide the customer's contact name, title, address, phone number, and email address. Preference would be for larger Government/Municipal projects located in Ohio, PJM and/or Duke Energy Ohio Service area.

6. FINANCIAL CAPACITY

Proposals shall include audited financial statements for the past three years for the Offeror or, if a team Proposal, the lead/prime firm. Also include documentation (i.e. annual reports, 10-Ks, etc.) describing the financial stability of Offeror.

Offerors shall also demonstrate bonding capacity to accommodate the potential magnitude of the City's program. Offerors should describe their bonding capacity and name the relevant sureties or insurance companies that serve as their performance bonding agent.

Proposals shall identify the source of capital to be used to finance the proposed work and shall include documentation demonstrating that funds will be available from that source. Provide an overview of financial products, any financing partners and partnership structure, and evidence of knowledge and application of supplemental funding including tax credits, grants, etc.

7. CONTRACTUAL

Offerors shall provide a statement indicating commitment to the minimum warranties outlined.

Offeror shall provide copies of the firm's proposed contracting mechanism and an associated draft contract. The City reserves the right to define certain standard terms and conditions for the proposed mechanism. Offeror shall clearly state, in plain

language, how the proposed contract allows the City to meet its financial and environmental goals for this project. A copy of the City's current PPA is provided as Appendix 3 for reference.

8. REQUIRED FORMS

Include all required forms as outlined under "Required and Miscellaneous Forms" on page 27. Failure to do so may result in your Proposal being rejected as non-responsive to the requirements of this RFP.

The following components are required for each proposed project:

9. EXECUTIVE SUMMARY

Offeror shall submit an executive summary, which outlines its proposal, including, at a minimum, a summary of the proposed services as described herein. This section should include a clear statement of the Offeror's technical and financial understanding of this RFP including possible cost saving measures such as utilizing tax credits in the Inflation Reduction Act. The City may use the executive summary for public information purposes. Page Limit: Two typed pages

10. TECHNICAL PROPOSAL SECTION

Organize proposals to clearly identify sites/projects and the Option(s) under which the Offeror is submitting

Option 1 – Center Hill Landfill

Initial information regarding Center Hill Landfill is included in Appendix 2. Refer to Exhibit B for specifications relevant to the technical proposal for Option 1. Offeror is expected to include a preliminary proposal to develop and deliver power from this site. Shortlisted Offerors will be given the opportunity to conduct a site visit and provide a more detailed final proposal.

Option 2 – Off-Site, In or Adjacent to City and Option 3 – Off-Site, Large Scale

Off-site generation will be required to meet the overall goals of the project. Refer to Exhibit B for specifications relevant to the technical proposal for Options 2 and 3. Please provide detailed information on the timeline, state of project development and achievement of key milestones for off-site generation. This may include but is not limited to land acquisition, regulatory approvals, interconnection agreements, and equipment procurement.

Initial Proposals shall include the following details at each of the proposed project locations where applicable.

- Brief overview of the project partners and their roles and responsibilities.
- System description, including warranties and assumptions.
- Proposed location and confirmation that it is suitable for the proposed project and/or description of necessary modification, improvement, or further assessment.
- Proposed timeline or project schedule.
- Equipment details and description. All equipment shall be UL listed. Specification sheets may be included as an attachment.
- For projects that are already underway: site location (in respect to the City of

Cincinnati), the likelihood of project completion (determined by documented progress to date), as well as secured property rights, environmental permitting, impact studies, filings/executed agreements/approvals with the necessary Utility, PJM, and the Ohio Power Siting Board where applicable.

In addition to the items listed above, shortlisted projects will be required to provide the following information:

- Project Team Leads for the project and key personnel (clearly identify project manager) proposed to be available for assignment:
 - Roles and responsibilities of each team member, and the relationship between team members. Include an organizational chart.
 - Identify capabilities with Ohio subject matter training and experience as related to PUCO, Duke Energy Ohio, PJM ISO, OEPA or FAA requirements and contract negotiations.
 - If a team of more than one firm, provide a brief description of each team member's firm and their ability to contribute to successful clean energy generation or energy storage program implementation (history, performance of similar scope of services, etc.) Include history of past projects that the team members have worked on together.
 - Identify any subcontractors the Offeror intends to employ in execution of the program. Discuss their role and provide information on subcontractors' experience performing similar work.
 - Identify in-house or outside legal counsel.
 - Resumes may be provided as an attachment and do not count toward page limits.
- Description of proposed location and confirmation that it is suitable for the proposed project and/or description of necessary modification, improvement, or further assessment.
- Proposed timeline or project schedule.
- System description, including warranties and assumptions.
- Equipment details and description. All equipment shall be UL listed. Specification sheets may be included as an attachment.
- Procedures and specifications for equipment procurement and installation. Installers must possess the NABCEP (North American Board of Certified Energy Practitioners) certification. All installations shall comply with the applicable building, mechanical, electrical, and plumbing codes.
- All engineering details associated with structure and mounting.
- Electrical grid interconnection requirements.
- Controls, monitors, and instrumentation.
- Guaranteed minimum output from the system as a percentage of the expected performance output from the system. The quality of the electrical output shall meet or exceed Duke Energy Ohio standards or should include power conditioning equipment (filters, surge devices, electrical protection, and proper switching) that meets Duke's system requirements.
- Security measures taken to protect new equipment and to allow shared access to authorized maintenance personnel (the Offeror, City personnel, etc.) to monitor, disconnect or service equipment as necessary.
- Installation details that will ensure the safety of firefighting personnel.
- Provide a description of Offeror's capabilities to respond for services, maintenance

and system failures. Include name and address of support groups that will provide services (or could provide services, for proposals responding to Option 1 that involve city-owned energy generation and/or storage). Recommend service intervals and tasks that need to be performed to optimize the benefits of these installations.

- For projects that are already underway: site location (in respect to the City of Cincinnati), the likelihood of project completion (determined by documented progress to date), as well as secured property rights, environmental permitting, impact studies, filings/executed agreements/approvals with the necessary Utility, PJM, and the Ohio Power Siting Board where applicable.

11. COST OF SERVICES

Initial Proposals shall include the following details at each of the proposed project locations where applicable.

- For Option 1: Proposed cost of a city owned array or proposed PPA pricing of electricity.
- For Option 2 and 3, anticipated contract terms and pricing, including proposed operating and contractual arrangements between the Offeror and the City.
- PPA pricing of electricity considering 10-, 15- and 20-year term
- Buyout options at year 5, year 10 and year 15
- Full no cost decommissioning at year 20
- Clear description of how the Offeror will be compensated. The City of Cincinnati anticipates energy pricing to follow current pricing trends. Offerors should present anticipated costs, to include:
 - A flat rate energy price over the project lifetime.
 - A variable energy price over the project lifetime, if preferred by the Offeror.
- Offerors must certify in their fee proposal that they will not earn additional income such as, but not limited to, commission or fees from developers of clean energy projects directly or indirectly related to the procurement of this clean energy development project unless disclosed and agreed upon by the City.

In addition to the items listed above, shortlisted projects will be required to provide the following information:

- Work separated into scope tasks with associated efforts (hours and cost) estimated for each task.
- Estimated terms for payment showing contract length, cost per kWh, Operation and Maintenance scope tasks (i.e. periodic calibrations, major equipment replacement, annual maintenance, grass service, etc.), dates of completion and compensation schedule for completed tasks.
- PJM pricing node if applicable.
- Proposed ownership of RECs and capacity payments.
- Follow-up services and Optional Extra Costs and Credits - describe your firm's standard fee structure for future work efforts
- Tasks that should have estimated pricing are as follows:
 - Turn-key installation of Facilities from project concept to energy delivery to the City.
 - All operation and maintenance of the Facilities over the entire term of the contract with the City. This includes but is not limited to security, the maintenance

- of the immediate grounds, any required equipment replacement such as inverters.
 - Any ongoing expenses for follow-up services needed to ensure the successful completion and production of the Facility over the terms of the contract.
- The Offeror's methodology for development of pricing in the form of a financial model, which should include as a minimum:
 - Development cost
 - Capital expenditure
 - Operational expenditure
 - Decommissioning cost
 - Financing costs
 - Tax credits (Inflation Reduction Act, etc.)
 - Pricing variations due to siting or other factors
 - Performance and generation expectations

12. ECONOMIC INCLUSION

Economic Inclusion: Describe the Offeror's strategy for economic inclusion. If subcontracting is expected, the Offeror shall provide a description of the distinct element(s) of work to be subcontracted. Goals will be information-only in Step 1, but will be required in Step 2 of the solicitation.

All work to be subcontracted must be submitted on the forms found within the "MBE/WBE Inclusion Packet" to be considered toward the subcontracting goals. See "Required and Miscellaneous Forms" on page 27 for the relevant forms.

Describe the Offeror's commitment to and strategy for promoting quality jobs through apprenticeship programs, wages, healthcare coverage, and retirement benefits for work on the project.

13. KNOWLEDGE AND UNDERSTANDING OF LOCAL ENVIRONMENT

Describe familiarity with and experience working in the local "environment". The "environment" includes but is not limited to: City and other local agency regulations and policies; local utility tariffs and regulations; local environmental documentation requirements; geotechnical conditions in project area; local building codes and building permit-related considerations; and other local design criteria and community issues. Indicate how local firms are being utilized to ensure a strong understanding of local laws, ordinances, regulations, policies, requirements, permitting, labor concerns, etc.

14. OTHER ADVANTAGES TO THE CITY

Extras or alternate proposals to be considered. Examples include but are not limited to technology innovations, ancillary energy services, programs that increase local employment opportunities and economic impact, etc.

III. CITY STANDARD CONTRACT TERMS AND CONDITIONS

The Offeror's response to this Request for Proposal (RFP) will be made a part of the contract with the City. Terms and Conditions, substantially in the form contained herein, shall be included in the Agreement between the City and the successful Offeror. In this Section, "Offeror" is

referred to as "Contractor."

Unless otherwise stated by the Offeror in the response to this RFP, the Offeror agrees to the following Contract Terms and Conditions, which will become part of the subsequently negotiated contract.

SUBCONTRACTING

None of the work or services covered by this Agreement shall be subcontracted, except as set forth herein, without the prior written approval of the City of Cincinnati. The City assumes no obligation to pay, and will not pay, a contractor for any work and/or services performed by a subcontractor on the contract prior to the City Manager's approval of that subcontractor. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

In the event the Contractor employs a subcontractor without first securing the required approval of the subcontractor by the City, the City shall have the right to stop payment to the Contractor or withhold any monies due the Contractor until the subcontractor is approved by the City.

The Professional Service Subcontractor Approval Policy and Procedures and the Approval Request Form is available at <http://www.cincinnati-oh.gov/purchasing/> or may be furnished in other form upon request.

The City maintains a list of Vendors Debarred from Contracting or Subcontracting with the City that may be accessed at: <http://www.cincinnati-oh.gov/purchasing> or may be furnished in other form upon request. The City will not contract with any firm or person on the list. It is Contractor's responsibility to verify that each subcontractor it proposes to use is an eligible firm or person. The City will not approve a subcontractor whose name appears on the list.

The City shall neither accept nor be liable for any increase in costs, or other expenses, delay, loss, or subsequent ineligibility to contract with the City, incurred by a contractor as a result of the City rejecting any proposed person, firm, partner, principal, affiliate, subcontractor or supplier that is debarred or suspended after the submission of a bid, proposal, or other communication leading to a contract, but before the approval or award of the contract.

The City shall not unreasonably withhold approval of a subcontractor.

ASSIGNMENT OF CONTRACT

The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, whether by assignment or novation, without the prior written consent of the City of Cincinnati.

COMPLIANCE WITH LAWS AND POLICIES

This Agreement is subject to and Contractor shall comply with all statutes, ordinances, regulations, and rules of the Federal Government, the State of Ohio, the County of Hamilton and the City of Cincinnati.

EQUAL EMPLOYMENT OPPORTUNITY

The Contractor shall be subject to the provisions of the City of Cincinnati Municipal Code Chapter 325, regarding Equal Employment Opportunity (EEO). The EEO Program requires the

Contractor awarded the contract to complete and submit a DEI 147 form. The DEI 147 form is designed to provide an evaluation of the Contractor's policies and practices relating to the extension of equal employment opportunity to all persons without regard to race, religion, color, sex, sexual orientation, gender identification, national or ethnic origin, age, handicap, or Vietnam military service.

Failure to comply with the City's request for submission of the DEI 147 form within ten (10) days of the date of the request will be sufficient cause to reject the proposal due to the Contractor being non responsive.

AMERICANS WITH DISABILITIES ACT

The City of Cincinnati is committed to supporting the Americans with Disabilities Act. Please contact the City's Office of Aging and Accessibility if you require any special accommodations.

SMALL BUSINESS ENTERPRISE AND MINORITY AND WOMEN ENTERPRISE

This contract is subject to and Contractor shall comply with the provisions of the Small Business Enterprise (SBEs) Program contained in Chapter 323 and the Minority and Women Business Enterprise (M/WBE) Programs contained in Chapter 324 of the Cincinnati Municipal Code. Section 323-99 and 324-99 of the Cincinnati Municipal Code are hereby incorporated by reference into this contract.

The Contractor shall utilize best efforts to recruit and maximize the participation of all qualified segments of the business community in subcontracting work, including the utilization of SBEs and M/WBEs. This includes the use of practices such as assuring the inclusion of qualified SBEs and M/WBEs, in bid solicitations and dividing large contracts into smaller contracts when economically feasible.

The SBEs and M/WBEs must be certified under the appropriate City commodity code by the time of the bid closing.

Information regarding the City's SBE and M/WBE programs and a directory of certified firms can be found at the following website: <http://www.cincinnati-oh.gov/inclusion/>.

CONTRACTOR'S COVENANT OF NON-DISCRIMINATION

Pursuant to the City of Cincinnati's policy of non-discrimination, specifically in its purchasing and contracting practices and as a condition of contract award, we covenant, represent and warrant that:

- We will not discriminate against small business enterprises on the basis of race, ethnicity, gender or disability in the process of contracting, subcontracting and purchasing;
- We will use good faith efforts to promote opportunities for small business enterprises to participate in and compete for opportunities to the extent of their availability and capacity;
- We will submit to ongoing monitoring by and submittal of reports to the City's Department of Economic Inclusion;
- We will submit to investigations and/or audits by the Department of Economic Inclusion in connection with routine monitoring or as a result of specific allegations of discrimination.

PROMPT PAY

This Agreement is subject to the provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System."

EVALUATION, REPORTS, INFORMATION AND AUDITS

The Contractor agrees to participate full in all evaluation activities initiated by the City. The Contractor, at such times and in such form as the City may require, shall furnish the City such reports as may be requested pertaining to the work, student participation, course tracking, and services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement. The Contractor shall retain all financial and administration records for a period of three years after the expiration or termination of this Agreement, and shall permit the City or any of its representatives or auditors access to such records.

HOLD HARMLESS

The Contractor shall protect, defend and hold harmless the City of Cincinnati, its agents, employees, and volunteers from any and all loss, claims, expenses, actions, causes of action, costs, damages, and obligations, financial or otherwise, including attorney fees and legal expenses, arising from any and all acts of the Contractor, its agents, employees, licensees, invitees, that result in injury to persons or damage to property.

INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify, defend and save the City, its agents, and employees harmless from and against any and all losses, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with or arising directly or indirectly out of errors or omissions or negligent acts by the Contractor including by the Contractor's employees and agents in the performance of this Agreement.

The Contractor, at its sole cost and expense, shall procure and maintain Workers Compensation insurance coverage. A copy of a document evidencing such Workers Compensation coverage shall be furnished to the City of Cincinnati prior to commencement of services by the Contractor under this Agreement.

The Contractor, at its sole cost and expense, shall procure and maintain at all times during the term of this Agreement Comprehensive General Liability Insurance (including personal injury) with a combined single limit for personal injury and property damage of not less than One Million Dollars (\$1,000,000) per occurrence.

The Contractor, at its sole cost and expense, shall procure and maintain at all times during the term of this Agreement Automobile Liability (including Non-Owned and Hired Auto Coverage) of not less than One Million Dollars (\$1,000,000) per occurrence.

The Contractor shall have the City named as an additional insured on the Comprehensive General Liability and Automobile Liability Insurance policies, and the policies shall waive subrogation against the City.

The Contractor shall furnish to the City Certificates of Insurance certifying the above types and amounts of insurance. Such Certificates shall include a Notice of Cancellation clause with notification being sent to the City.

CONFLICT OF INTEREST

- A. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, nor any immediate family member, close business associate of such officer, employee or agent, or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Contractor or in this Agreement, and the Contractor shall take appropriate steps to assure compliance with this provision.
- B. The Contractor agrees that it will not contract with any subcontractor in which it has any personal financial interest, direct or indirect. The Contractor further covenants that no person having any conflicting interest shall be employed in the performance of this Agreement .
- C. The Contractor agrees not to engage in activities on behalf of the City that produce a direct or indirect financial gain for the Contractor other than the agreed-upon compensation, without the City's informed, prior, written consent.

CONFIDENTIALITY

The Contractor, its agents, and its employees, will keep and retain any and all information and records generated under this Agreement in the strictest confidence and will neither use such information or records nor disclose such information or records to anyone without the explicit written permission of the City. The Contractor warrants that it has and will continue to have safeguards in place to assure that such information and records are kept confidential by the Contractor, its agents, and its employees.

PROPRIETARY MATERIALS

The City acknowledges that in the course of performing services, the Contractor may use products, materials, or propriety methodologies. The City agrees that it shall have or obtain no rights in such propriety products, materials, and methodologies except pursuant to a separate written agreement executed by the parties.

The Contractor acknowledges that in the course of performing services for the City, the materials and information produced for the City are the exclusive properties of the City and may not be disseminated in any manner without prior written approval of the City.

WARRANTY

The Contractor warrants that the services to be provided by it hereunder will be performed in a good, timely, and professional manner by qualified staff and in accordance with generally accepted professional practices. The Contractor further warrants that the design and recommended solution are workable and capable of meeting the objective and purpose of the project as described in this RFP.

OWNERSHIP OF PROPERTY

The Contractor agrees that at the expiration or in the event of any termination of the Agreement that any memoranda, maps, drawings, working papers, reports, records, files either electronic or paper and other similar items produced in connection with this Agreement shall become the

property of the City and the Contractor shall promptly deliver such items to the City.

TERMINATION

- A. **Termination of Contract for Cause.** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner the Contractor's obligations under this Agreement or if the Contractor violates any of the terms and conditions, covenants or agreements of the Agreement, if no attempt is made to cure the failure within a period of ten (10) days or a longer period specified in writing, the City shall have the right to terminate this Agreement by giving written notice to the Contractor specifying the effective date of the termination, at least five (5) days before such effective date. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City of Cincinnati by virtue of any breach of this Agreement by the Contractor, and the City of Cincinnati may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the City from the Contractor is determined. Exceptions may be made with respect to defaults of subcontractors.

In the event this Agreement is terminated for cause, all finished or unfinished documents, data, studies, reports, and/or information prepared by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work satisfactorily completed at the date of termination.

- B. **Non-Performance/Periodic Payments.** Any periodic payments from the City specified in this Agreement will be contingent upon performance of contractual obligations to date, including the proper receipt of supporting receipts, invoices, reports, statements, or any other supporting information as required by the City in this Agreement. In addition to having the right to terminate the Agreement, if the Contractor fails to satisfactorily meet any one of the Agreement obligations, the City may not approve periodic payments to the Contractor and/or may file liens as may be necessary against the Contractor's assets or future assets, until the Contractor satisfactorily fulfills its obligations under the Agreement or satisfactorily reimburses the City for any prior payments. The City also reserves the right to seek any other legal financial remedies as necessary pursuant to any damages the City may have encountered through the Contractor's default on any of the Agreement obligations until all or part of the City's prior payments have been recouped as the City deems appropriate, but such recoupment shall not to exceed the total amount of any prior payments. The City also reserves the right in the event of non-performance of this Agreement to prohibit any future or limited contractual relationships with the Contractor either directly or indirectly.

If the Contractor terminates this Agreement after the work has begun, the City shall not be required to compensate the Contractor for services/work not fully completed.

- C. **Termination for Convenience of City.** The City may terminate this Agreement by giving thirty (30) days' notice in writing from the City to the Contractor. If this Agreement is terminated by the City as provided, the Contractor will be compensated per ODOT CMS 108.09.
- D. **Alternatives to Termination.** In the event the Contractor fails to fulfill the terms and conditions of this Contract in a timely and diligent manner, the City reserves the right, at its sole option, as an alternative to termination of the Contract, to reduce the services required herein of the Contractor and reduce the project budget in a manner which reflects such a

reduction, by giving notice of such in writing, stating the date such reduction will become effective.

INDEPENDENT CONTRACTOR

Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City. Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder and all persons performing the same and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be construed as creating a partnership or joint venture between the City and Contractor. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant or employee of the City, nor shall any such person be entitled to any benefits available or granted to employees of the City.

CERTIFICATION AS TO NON-DEBARMENT

Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction covered by this Agreement. Contractor acknowledges and agrees that if it or its principals is/are presently debarred then it shall promptly return to the City any funds received pursuant to this Agreement. In such event, any materials received by the City pursuant to this agreement shall be retained as liquidated damages.

WAIVER

This Agreement shall be construed in a manner that a waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

LAW TO GOVERN

The Agreement is entered into and is to be performed in the State of Ohio, City of Cincinnati, and Contractor agrees that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

FORUM SELECTION

Jurisdiction for any claim or lawsuit arising or resulting from this Agreement shall be Ohio courts. The Contractor and its successors and assigns acknowledge and agree that all state courts of record sitting in Hamilton County, Ohio, shall be the exclusive forum for the filing, initiation, and prosecution of any suit or proceeding arising from or out of, or relating to, this Agreement, or any amendment or attachment thereto, including any duty owed by the Contractor to the City in connection therewith.

AMENDMENT

This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

ENTIRETY

This Agreement and the Exhibits attached hereto contain the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

SEVERABILITY

This Agreement shall be severable, if any part or parts of this Agreement shall for any reason be held or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

IV. REQUIRED AND MISCELLANEOUS FORMS

REQUIRED AND MISCELLANEOUS FORMS TO BE EXECUTED BY OFFEROR AND SUBMITTED WITH INITIAL PROPOSAL. FORMS SHALL BE UPDATED AND RESUBMITTED DURING STEP 2.

- **ATTACHMENT 1 – Offeror Corporate and Contact Information**
 - Required with Proposal Submission.
- **ATTACHMENT 2 – Affidavit of Accuracy and Signature Page**
 - Required with Proposal Submission.
- **ATTACHMENT 3 - Subcontracting Goal Packets**
 - **Required during Step 2 with Proposal Submission if subcontracting.** Submit one complete packet per proposed project and/or Option for which you are submitting. For example, if submitting under Option 1 – On-Site and Option 3 – Off-Site on Non-City Property, you will submit two packets (an “MBE/WBE Inclusion Packet” for Option 1 and an “MBE/WBE Inclusion Packet” for Option 3). You would also submit two packets if you propose two different projects under Option 3 – Off-Site on Non-City Property. Clearly identify the applicable Option and project on each packet.
 - If you are unable to complete an “MBE/WBE Inclusion Packet” for ANY individual Option at this time, you **must** provide, when responding to section “14) Economic Inclusion” of the “Content and Form of Proposals” on page 19, a **notarized** statement committing to meet the subcontracting goals upon contract execution. **Failure to provide an “MBE/WBE Inclusion Packet” or a notarized commitment to meet the subcontracting goals may result in your proposal being rejected as non- responsive to the requirements of this RFP.**
 - The “MBE/WBE Inclusion Packet,” which includes the applicable forms to be completed and included with the proposal, is available at the following page: <http://cincinnati-oh.gov/inclusion/forms/subcontractor-inclusion-goal-packages-for-bids-rfps/>. When on the aforementioned page, please click on the “MBE/WBE Inclusion Packet” link to download and access the appropriate forms.
- **ATTACHMENT 4 – Equal Employment Opportunity (EEO) Form (DEI147)**
 - Required but used for informational use only. The successful Offeror may be required to complete this form at contract execution. A copy of the form is available at the following webpage: <http://cincinnati-oh.gov/inclusion/forms/subcontractorinclusion-goal-packages-for-bids-rfps/>.

- **ATTACHMENT 5 – Taxpayer in Good Standing Letter**
 - Offerors responding to solicitations will be required to submit a letter from the City's Income Tax Division verifying good standing. Letters must be submitted with the Proposal in order to be considered responsive. Proposals which do not include the Letter will be rejected as non-responsive in accordance with the Cincinnati Municipal Code Chapter 321.
 - To request your taxpayer in good standing verification letter, please contact Andrea Donegan at Andrea.Donegan@cincinnati-oh.gov or at 513-352-3873. Please allow 2 business days for processing after receipt of your request.
 - This is still required even if the Offeror is not from Cincinnati or the State of Ohio.