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Strategic Procurement Division

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November 14, 2014

SUBJECT: Letter of Clarification No. 3
Long Term Power Purchase Agreement for 30 Megawatts (MW) of Renewable Energy

REFERENCE: RFP No.: S33-T25140

TO: All Prospective Respondents

This Letter of Clarification is issued for the following reasons:

1. To provide vendors with a response to questions not previously answered. Please see the yellow highlighted ID#'s for a response or revised response.

ID # Question What study results can the City provide for the two City-owned sites? It would be beneficial to review any environmental survey, regulatory review, wetland delineation or jurisdictional study results the City may have.

1. Response The City has a Phase II environmental Study for the Belfort Landfill site prepared in October of 2010. This site has not received any designation as wetlands.

There are no available environmental studies available for the Ellington Field location. The city of Houston Aviation Division is unaware of any unique environmental designation for this location.

- 2.** Question How will the City receive electricity from the PPA and at what sites will the PPA serve?
Response Electricity will be purchased by the City through its current and future REP of record. The City and its REP would enter into a three party PPA for the purchase of the solar energy, which would be delivered to the City through its REP. There will be no specific City sites specified in the three party PPA. The City's ESI IDs will be listed in its agreement with its REP of record.

3. Question Please identify the exact locations of the City owned properties being offered. Show the project area ingress and egress.

Response Access to the Belfort Landfill site is a gated entrance at the official address listed in the RFP. Access to the Ellington Field location is available via Genoa Red Bluff Rd. A site visit schedule will be provided at a later date.

4. Question Will any Proposer be able to visit the site before the proposals are due?
Response Yes. A site visit schedule will be provided at a later date.

5. Question Do sites within the Houston Load Zone of ERCOT qualify as ‘proximate’ to Houston? If not, do sites within a certain radius qualify?
- Response The City is seeking locations in or proximate to the city limits in an effort to achieve the added benefit of economic development. As noted in the RFP, the City is seeking the most attractive economic solution and will consider all proposals, regardless of location. Proposed solutions more geographically removed from the City will be expected to provide more favorable economic alternatives.

6. Question The RFP reads, “the City will expect the winning Proposal to provide the balancing energy required to deliver a block of energy equivalent to the rated capacity of the renewable energy facility.” Please describe the structure you intend. Does the City mean to have 30 MW of electricity delivered 24 x 7? Is the balancing energy from renewable sources as well? Will the deliveries be required to follow load?

Response ~~The City is seeking a firm, 24x7, 30 MW block of power comprised of all renewable energy produced from the new facility and balancing energy to complete the block. There is no expectation that the balancing energy will come from renewable sources. The intent of the proposed structure is to provide the City with a blended price, competitive with market priced alternatives available to the City.~~

The City has requested a firm, 24x7, 30 MW block of power comprised of all renewable energy produced from the new facility and balancing energy to complete the block. There is no expectation that the balancing energy will come from renewable sources. The intent of the proposed structure is to provide the City with a blended price, competitive with market priced alternatives available to the City. The City has asked that Proposers submit pricing for the renewable energy and the balancing energy separately. ***Proposers wishing to do so may submit a price for renewable energy only and their submission will be considered responsive to the RFP.*** The balancing energy price is not a requirement, only an option.

~~In as much as the City is seeking a block of energy, it would not be following load.~~ There is no expectation that the energy delivered would follow load.

7. Question Please elaborate a bit more on what this means to the power supplier?
Non-Appropriation Clause. This clause acknowledges the impact that Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, may have on the City's ability to pay its contractual obligations.

Response Proposers should consult their attorney and financial advisor regarding what this means to you. The Non-appropriation clause, which is a requirement of the Texas Constitution and City's Charter, will be similar to the following standard terms:

“Limit of Appropriation. (1) The Buyer’s duty to pay money to Seller for delivery of Energy under this Agreement is limited in its entirety by the provisions of this Section. (2) In order to comply with Article II, Sections 19 and 19a of the City’s Charter and Article XI, Section 5 of the Texas Constitution, the Buyer has appropriated and allocated the sum of [\$_____] to pay money due for delivery of Energy under this Agreement (the “Original Allocation”). The executive and legislative officers of the Buyer, in their discretion, may allocate supplemental funds for delivery of product under this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies.”
(procedures will be provided during contract negotiations)

8. Question Based on the discussion and description, it seems as though two general locations in the image below are the likely areas contemplated. The yellow section being just off the airport proper and the blue being on the airport grounds. The public record is a bit unclear as to which parcel or parcels may be owned by the City, so we could use some help in zeroing in on exactly the locations you have in mind. It was mentioned that a site map and potentially an environmental survey would be provided. Is that something that could be sent relatively soon to bidders? Given the scope of the potential project, we’d like to begin our design process as soon as possible.



Response A response will be provided at a later date

9. Question In regards to the Ellington Airfield site, if the project is expected to be “behind the meter”, where does the City envision the project will be interconnected? Please provide location, voltage, etc.

Response As was noted at the Pre-Bid conference, the City has offered both the Belfort and Ellington sites in an effort to lower the overall cost of the project and secure the best economic supply proposal from the RFP process. The City has not conducted any site studies or interconnection studies of either location. The City does have a Phase II environmental study for the Belfort site prepared in October 2010 that will be provided. The voltage of the transmission and distribution assets proximate to the sites is not known.

10. Question Will the City provide a contact with Ellington Airport that can assist with determining what FAA regulations, if any, will apply to solar facilities installed near the airport?

Response Proposers need to consult their own legal counsel regarding FAA regulations. Some guidance from the FAA can be found in “Technical Guidance for Evaluating Selected Solar Technologies on Airports” (2010) as amended by “Interim Policy, FAA Review of Solar Energy Systems Projects on Federally Obligated Airports” (2013) which are instructive, but not necessarily applicable in all aspects to this project. The FAA reports are available at: www.faa.gov/airports/environmental

11. Question Will any site maps be provided by the City?

Response Yes

12. Question Was attendance at the pre-bid conference mandatory?

Response No.

13. Question Does the city have parcel boundaries for the two sites (airport and landfill)? Where is the preferred location of the project on these sites? What would be the proposed point of interconnection (if known)?

Response The City does not have a legal description of the Ellington Airport site. An unofficial survey of the Belfort location has been posted. The City does not have a preferred location on either site location. The proposed point of interconnection is not known.

14. Question 1. The RFP identifies two potential City-owned sites for location of the renewable energy generation system (“System”). Regarding each site:

b) Please provide the following drawings, surveys or reports:

- i. Property boundaries of each site; and any other available surveys, including ALTA and topographical surveys
- ii. Outline of the area(s) available for solar energy projects
- iii. Geotechnical reports

- iv. Electrical tie in locations
 - v. Electrical site plans
 - vi. Electrical one-line diagrams
 - c) Has there been any environmental permitting completed for the landfill? If the landfill is capped, is the system able to penetrate a cap? Will the City conduct or permit bidders to conduct an environmental audit of each site? Does the City have any environmental assessments of the sites that it can provide to bidders?
 - d) Regarding the site lease, additional costs for the site lease impact the PPA rate to the city. We typically assume the site lease cost of \$0. What should we assume for the cost of the site lease?
 - e) Can we arrange site visits? If so, please provide appropriate contacts.
2. As it relates to the financial requirements for bidders (RFP Section 2.2.1, page 4), is a rating of A/A2 a requirement for participation? Are entities with lower ratings able to bid? Assuming lower rated entities are allowed to participate, will the City provide clarification on potential performance assurance requirements in terms of form (bond, letter of credit, or parent guaranty), qualifications and ratings of the issuer, and amount?
3. Section 5.4.10 of the RFP (page 13) states that the City reserves the option of “extending the PPA on an annual basis for two additional five-year terms.
- a) Please explain what is meant by “on an annual basis”. Our expectation is that the City would exercise the right to extend for the first five-year extension term at or near the end of the initial term, and exercise the right to extend for the second five-year extension term at or near the end of the first extension term.. The words “on an annual basis” suggest something else.
 - b) How does the City anticipate pricing will be established for the two extension terms? Would it be the original rate per MWh under the PPA plus an escalator?

Section 6.2.2 of the RFP (-page14) states that a bidder’s PPA price bid must remain firm for 180 days from the date of selection of that bidder for negotiation of a power purchase agreement. What does the City propose to do regarding the price bid for balancing, grid supplied energy? An REP would not be able to hold a fixed price open for that period. Does the City anticipate that pricing for the balancing, grid supplied energy will be at index?

Response 1. (a) & (b) Please refer to the response to item 9 above

(c) The City will allow bidders to conduct their own environmental audit for the sites but these activities will need to be coordinated through Conley Jackson and the appropriate representatives of the Solid Waste and Aviation departments.

(d) For the purposes of the proposal, the lease rate should assume to be \$1.00 per year. If a higher rate is required by law, then it will be passed through the electric rates as an adder.

(e) Site visits to both locations are being scheduled. The time and location for these will be posted when finalized.

2. ***If the bidder does not have the stipulated rating of A/A2 they must provide an unconditional performance guarantee from an entity that is rated A/A2. This performance guarantee can be in the form of a bond, letter of credit or parent company guarantee. All such performance guarantees are subject to review and approval by the City.***

3. The language in the RFP should not include “on an annual basis”. In the event the City elects to extend the PPA for one or both of the proposed 5 year terms, this election will be made prior to the end of the initial term and again prior to the end of the first extension term. With regard to pricing, it is assumed that the facilities will be fully amortized and depreciated at the end of the initial term. Accordingly, the City would expect the price for the extension terms to be no more than the price during the initial term. Proposers may submit proposals containing any pricing scenario and the City will evaluate the financial impact accordingly.
 4. The 180 day period applies to the solar energy only. The City asks that Proposers include a pricing mechanism or formula for the balancing energy and understands that any price for this component would be indicative and not binding upon either party.
15. Question Does the City have an estimated date by which proposers can expect to receive responses?
Response 10/31/14
- 16.** Question 1. Can the City please provide a minimum of one-year historic load data for all of the meters located on the two premises offered in the solicitation as potential installation locations (Ellington Airport and Belfort Landfill)?
- a. MP2 views this as a critical component of being able to appropriately price and supply the 30 MW block of energy and also critical for helping value the market economics of the solar resource based on the load profiles of the onsite load.
 - b. Further, this level of detail is necessary so we can appropriately evaluate the monetary benefit the City will obtain from any real-time export of excess generation through MP2's *Solar Net Metering* offer.
2. Can the City please confirm the expected term for the retail supply agreement? Will bids that do not have retail supply agreements that meet that full term be disqualified?
- Response 1. Consumption at the City's S.E. Water Purification Plant adjoining the proposed Ellington Field site for fiscal years 2012, 2013 and 2014 is 40,604,102 kWh, 41,416,624 kWh and 43,986,603 kWh respectively. Consumption at Ellington Field for the same periods was _____. The City has no facilities at the Belfort location.
- 2.** Please see the response to item 2 above. The anticipated PPA would be a three party wholesale agreement between the City, the selected Proposer and the City's current REP of record. The PPA would have assignment provisions such that the REP's obligations would be assigned to the City's future REP of record.
17. Question Please provide the address of the water treatment facilities that would consume the energy to be produced by the proposed solar plant (on the behind-the-meter basis).
Response A response will be posted at a later date.
18. Question Please provide the electricity consumption profile (on an hourly basis, if possible) for each of the water treatment facilities.
Response Please see the response to item 16.1 above.

19. Question Please confirm that the portion of the balancing energy required to firm up the 30 MW block would not have to be produced by a renewable facility.
Response Balancing energy can be sourced from any grid-based source.
- The City has asked that Proposers submit pricing for the renewable energy and the balancing energy separately. **Proposers may submit a price for renewable energy *only* and their submission will be considered responsive to the RFP.** The balancing energy price is not a requirement, only an option.
20. Question Please make available all environmental reports that have been done for each of the sites at the Ellington Airport and at the Belfort Landfill.
Response There are no environmental reports for the Ellington site. A Phase II Environmental Study for the Belfort site prepared in October 2010 has been posted to the website.
21. Question It is my understanding that, at the October 10th pre-proposal conference, the City representative stated that the City Council could, in any particular year (or years); decide not to appropriate funds to pay for the purchase of power that the City shall have agreed to purchase in the PPA. [Is my understanding on this matter correct?](#)
Response Yes. Please see the response to item 7 above.
22. Question **Sovereign Immunity** of the RFP says “The City will not agree to any language that can be construed as waiving any of its immunities it possesses as a government entity.” In view of this provision, if the City fails to make timely payments for power it shall have purchased under the PPA (e.g. the City Council does not appropriate sufficient funds to pay), would the supplier of electrical power to the City have legal recourse to sue the City for any sums due, or would the City’s sovereign immunity block that remedy?
Response Consult your attorney regarding your particular circumstances. It is important to note that two concepts are contained in this question. First, the failure to make timely payments for no good cause would be a breach of contract subject to the normal legal remedies. Sovereign immunity defenses may or may not be available, or may act to limit the City’s liability. Second, the failure of City Council to appropriate sufficient funds is not a breach of contract. If a vendor provides energy knowing that insufficient funds have been appropriated, then it does so at its own risk.
23. Question Does this PPA require a build?
Response A new facility is not required but encouraged. If an economically compelling proposal utilizing an existing renewable facility is submitted, the City will evaluate it.
24. Question Please define “the proximity to the City of Houston”.
Response There is no specific definition for the term in question. The City’s goal was to drive the added benefit of economic development in conjunction with the construction of the new facility.
25. Question What utility interconnection facilities are near the Ellington Airport and the Belfort Landfill?
Response Ellington Airport has only a standard service interconnection. There are no facilities at the Belfort site and therefore no existing interconnections.
26. Question At the pre-bid meeting, the City offered to provide environmental studies for both of the city owned proposed sites. When will those be made available? In the US Army’s Solicitation Number: W9126G-06-D-0037-00XX this was stated: “Various environmental studies have been conducted at the incinerator site from 1994 to 2001 and at the landfill from 2003 to 2006. The City would like to redevelop the site for possible park space, a botanic garden and a Solar Plant Facility. The EPA has agreed to additional investigation activities of the landfill under the EPA TBA program.” Please provide those specific studies if possible.
Response Please refer to item 20 above.

27. Question Are there any known, extraordinary environmental conditions at either of the sites? (Ellington Airport and the Belfort Landfill)
Response The City is not aware of any environmentally sensitive designations for either site.
28. Question Do you have any preference for solar solutions that are fixed-tilt, single-axis tracking, or dual-axis tracking?
Response The City has no preference regarding the design of the proposed solution.
29. Question Will the City consider more MW's than the 30MW that is requested? May the supplier build more than what the City is requesting?
Response As stated in the RFP "While the City is seeking projects with a total targeted output of 30 MW it will accept and review proposals for larger projects provided the resulting PPA offers a more favorable economic outcome for the City"
30. Question If there is value with sourcing these 30 MW's with one supplier for the wholesale and retail requirements, will the City entertain this as a solution if an extension has not been completed with the retail incumbent? In this scenario, the requested 30 MW power would be sourced from the renewable asset with all balancing, scheduling, and billing completed by the same company and its subsidiaries. A specific group of City of Houston department meters with comparable baseline usage will be contracted for the load to meet the retail requirements. Please advise and note **we would prefer to keep this a trade secret** if possible.
Response The structure as described would complicate rather than simplify the City's evaluation of a proposal. If there is value, it is not readily apparent to the City.
31. Question What needs to be done to arrange a visit to the airport site?
If you're doing one visit for all bidders, what date and time will that take place?
Response Please refer to Item 14.1.(e) above.
32. Question Will a map of the airport site boundaries (such as a KMZ file) be made available?
Response **A response will be posted at a later date.**
33. Question There appears to be a significant amount of trees on the Ellington Field site. Can we assume the City will take advantage of the value of the timber and have the site cleared in preparation for construction of the solar facility?
Response No. Site preparation is the responsibility of the Proposer.
34. Question Will the City please extend by 30 days the deadline for which to submit a proposal? There are many questions yet unanswered. Having a response to our questions less than three weeks before the deadline makes it very difficult to offer a quality proposal. The Proposer and the City have much to gain by having an adequate amount of time to study the sites offered by the City.
Response The closing date for proposal to be submitted has been extended to December 18, 2014 at 2:00 p.m. CDT.
35. Question It was described in the Pre-Proposal Conference that the City could satisfy the Proposer so that the Non-Appropriations Clause would not pose an overwhelming issue. Can the City please describe how it will work around the Non- Appropriations Clause? How will the Power Purchase Agreement address this issue?
Response A detailed response depends on the structure of the proposal. Rather than discuss multiple hypotheticals, this can be a topic of discussion with the leading Proposer during contract negotiations.

- 36.** Question What are the various levels and descriptions of City level permitting required to build a utility scale solar facility within the city limits?
Who is a contact in the City permitting office who can help with permitting questions?
Response ~~A detailed response depends on the specifics of the proposal.~~
~~There are qualified personnel available to assist builders at the Houston Permitting Center located at 1002 Washington Avenue, Houston, TX 77002. For more information and contacts, please visit: <http://www.houstonpermittingcenter.org/>~~
- A detailed response depends on the specifics of the proposal. There are specialists available to assist builders at the Houston Permitting Center at 1002 Washington Avenue, Houston, TX 77002. For more information and contacts, please visit:
<http://www.houstonpermittingcenter.org/>
37. Question Please verify that the property is NOT part of the Ellington airfield.
Response A portion of the Ellington Field site is within the boundaries of the Airport.
38. Question What is the permitting process specifically with the airport? Is there is an airport easement on the property offered?
Response The successful Proposer using the airport land will lease the land from the airport subject to Federal Aviation Administration (FAA) regulations and guidelines. The FAA has published “Technical Guidance for Evaluating Selected Solar Technologies on Airports” (2010) as amended by “Interim Policy, FAA Review of Solar Energy Systems Projects on Federally Obligated Airports” (2013) which are instructive, but not necessarily applicable in all aspects to this project. The FAA reports are available at: www.faa.gov/airports/environmental.
39. Question Do we need to obtain FAA approval since the site is close to the field?
Response Please refer to item 38 above.
40. Question Can the city provide the following information for the two suggested sites:
a. Parcel maps (with notes on which parcels are owned by the City of Houston)
b. Environmental/EPA reports (this mostly relates to the landfill site)
c. Alta Surveys
d. Geotechnical reports from the selected sites or nearby sites
Response Please refer to items 9 and 20 above.
41. Question Will there be a best value bid (BVD) solicitation for this RFP? (this questions stems from engaging with the “Houston First” group.
Response No. The RFP is the final document that will be used to select the best responsive/responsible proposer.
42. Question Will there be group site walks or do we coordinate individual site visits?
Response Group site visits are being arranged and a scheduled will be provided at a later date.
43. Question What lease rate should be assumed for the City property?
Response Please refer to item 14.1 (d) above.
44. Question Will the City consider property tax abatement for this project?
Response A property tax abatement has not been contemplated for this project.
45. Question I recall that the environmental study for the Belfort site would be provided. Is that still the case?
Response Yes
46. Question Would it be possible to visit the sites the week of November 10th?
Response Dates for the group tours referenced in item 42 above have not been finalized. A site visit schedule will be provided at a later date.

47. Question Could you please advise if there is road access and access for heavy equipment to the sites that are available from the City of Houston.
Response There is access for heavy equipment to both locations
48. Question Could you please advise me if there are minutes for the pre proposal conference?
Response No meeting minutes are available.
49. Question Who operates the grid that the project will connect to?
Response Please provide contact information company name, contact and telephone number.
Response Assuming the proposed is "proximate to the City" the TDSP would be CenterPoint Energy.
50. Question What voltage does the local grid operate at?
Response Please refer to item 9 above.
51. Question Will the grid operator provide its own transformer? If no, what are the operators requirements for the transformer?
Connection Mode:
Phases:
Capacity:
Output Voltage:
Output Frequency:
THD:
Cutoff Delay:
Testing Certification;
Other:
Response Bidder should consult with the TDSP serving their proposed location to determine responsibility and specifications for all equipment required for interconnection.
52. Question What other specific requirements does the grid operator have for new connections/solar projects?
Response Please refer to item 51 above.
53. Question In regards to the two areas that the city has offered for building the plants on. Please provide latitude and longitude. Is there grid access to these locations? If not how close is grid access?
Response The City does not have latitudes and longitudes for the locations but the physical address for Ellington Airport is 510 Ellington Field, Houston, Texas 77034. The physical address for the Belfort site is 3300 Belfort St., Houston, Texas 77051. Interconnection locations and voltage is not known.

When issued, Letter(s) of Clarification shall automatically become a part of the solicitation documents and shall supersede any previous specification(s) and/or provision(s) in conflict with the Letter(s) of Clarification. All revisions, responses, and answers incorporated into the Letter(s) of Clarification are collaboratively from both the Strategic Procurement Division and the applicable City Department(s). It is the responsibility of the respondent to ensure that it has obtained all such letter(s). By submitting a proposal on this project, respondents shall be deemed to have received all Letter(s) of Clarification and to have incorporated them into their proposals.

If you have any questions or if further clarification is needed regarding this solicitation, please contact me.

Sincerely,



Conley Jackson
Senior Procurement Specialist
Strategic Purchasing Division
832-393-8733

END OF LETTER OF CLARIFICATION 3