

**CITY OF HOUSTON, TEXAS**  
**NOTICE OF REQUEST FOR PROPOSAL (RFP)**  
**SOLICITATION NO.: S33-T25140**

***“PARTNERING  
TO BETTER  
SERVE  
HOUSTON”***

**NIGP CODE:** 961-85

**SOLICITATION  
DUE DATE/TIME:** NOVEMBER 20, 2014 AT 2:00 P.M. CDT

**SUBMITTAL  
LOCATION:** CITY SECRETARY’S OFFICE  
CITY HALL ANNEX, PUBLIC LEVEL  
900 BAGBY STREET  
HOUSTON, TEXAS 77002

**DESCRIPTION:** LONG TERM POWER PURCHASE AGREEMENT FOR 30 MEGAWATTS (MW)  
OF RENEWABLE ENERGY

	<u>Date</u>	<u>Time</u>	<u>Location</u>
<b>PRE-PROPOSAL  CONFERENCE:</b>	October 10, 2014	9:00 A.M.	901 Bagby, Basement Level, Conference Room No. 1 Houston, Texas

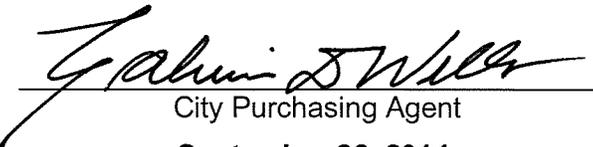
Sealed Proposals for the services specified will be received by the City Secretary’s Office of the City of Houston at the above specified location until the time and date cited. Proposals must be in the actual possession of the City Secretary’s Office on or prior to the time and date, and at the location indicated above. Late submissions will not be considered.

Proposals must be submitted in a sealed envelope or package with the Solicitation Number and the Proposer’s name and address clearly indicated on the envelope or package. All proposals must be completed in ink or typewritten. Additional instructions for preparing an offer are included in this Solicitation.

**PROPOSERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION**

**Solicitation Contact Person:**  
Conley Jackson

\_\_\_\_\_  
Name  
conley.jackson@houstontx.gov  
\_\_\_\_\_  
E-Mail Address

  
\_\_\_\_\_  
City Purchasing Agent  
September 26, 2014  
\_\_\_\_\_  
Date

# **Request for Proposals for A Long-Term Power Purchase Agreement for 30 MW of Renewable Energy**

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## **1.0 General Information**

### **1.1 Background**

1.1.1 This Request for Proposals (RFP) seeks Proposers willing to supply the City of Houston with up to 30 megawatts (MW) of renewable energy under a long term power purchase agreement (PPA) from a facility located on City owned property or at a location owned or controlled by the Proposer but proximate to the incorporated Houston city limits. Additionally, 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. The City will not own or manage the facility, but will commit to a long-term power purchase agreement (PPA) for its entire output.

1.1.2 The City has four specific goals in issuing this solicitation for the development of a renewable energy facility. First, the City would like to reduce its exposure to natural gas prices in Electric Reliability Council of Texas (ERCOT) by diversifying the type of fuel resources that are utilized to serve the City's electricity requirements. Secondly, the City is committed to taking steps that will result in cleaner air for the citizens of Houston and fellow Texans. Thirdly, the City seeks to provide long-term price stability for a material portion of its electricity supply portfolio to improve cost efficiency for its operations and increase budgetary certainty for its long term planning efforts. Lastly, sourcing

renewable energy from a facility within or in close proximity to Houston's city limits will encourage local economic development in America's Energy Capital.

1.1.3 The City of Houston has a long history of supporting renewable energy. At present 50% of its total energy portfolio is renewable making the City the 9<sup>th</sup> largest purchaser of renewable energy in the Nation. The PPA contemplated by this RFP is intended to add to the City's commitment to renewable energy, not replace existing load.

## 1.2 RFP Scope

1.2.1 The City is seeking proposals from firms that are financially and technically qualified and properly licensed to develop, commission and operate a 30 MW Eligible Renewable Energy Resource (as defined in Section 1.2.4) and provide the City with reliable long term supply of energy pursuant to the terms of a PPA. While it is assumed that solar generation will likely be the dominant solution offered, the City encourages Proposers to propose projects utilizing other alternatives provided they:

- (a) Employ technologies with a demonstrable operating history of safety and reliability;
- (b) Do not require capital investment by the City;
- (c) Are consistent with the City's financial objectives; and
- (d) Employ technologies that would support a power purchase agreement with an initial term of not more than 20 years.

1.2.2 Location. As noted above, the City will entertain proposals for facilities located on one or more sites owned by the City. There are a number of City-owned properties that may prove suitable for all or a portion of the proposed 30 MW facility. A list is attached as **Exhibit A**. In the event the proposal selected is located on City-owned property, the winning firm will enter into a lease with the City for the location(s) ultimately selected for a term commensurate with the duration of the PPA.

1.2.3 Size. 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. Furthermore, the City will consider proposals consisting of several locations that add up to approximately 30 MW of total rated generation.

1.2.4. Renewable Energy. Although the City's investigation of the Houston market indicates that solar energy is the most competitive renewable generation source, the City will review any proposal that meets the Texas Public Utility Commission (PUCT) definition of "Renewable Energy Technology" in PUCT Substantive Rule 25.5(111). The Proposer may propose a combination of renewable energy technologies that total approximately 30 MW of generation.

Renewable energy technology — Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

1.2.5 Energy Storage. In addition to the renewable energy technology proposed, the City will consider any proposal that also includes energy storage provided the resulting economic outcome remains favorable to the City. Failure to include an energy storage component will not disqualify a proposal.

1.2.6 Timeframe. The City will commit to a PPA with an initial term of not more than 20 years. The renewable energy facility should commence delivery of electricity on or before June 30, 2016, when the City's current electricity supply agreement expires. Proposers will be required to demonstrate to the City timelines which satisfy the desired benchmark dates set out in this RFP, and must demonstrate proven development and operating experience, financial capability and technical expertise to bring the proposed Project to completion within the timeframe proposed in the RFP response.

1.2.7 Price. The proposed price should be competitive for the Houston Zone whether the proposed renewable energy facility delivers power through the ERCOT grid or is located behind-the-meter. Proposers are asked to submit pricing for that portion of the energy produced by the renewable energy facility that (a) delivers energy and all renewable energy credits (RECs) generated to the City, and (b) delivers energy only allowing Proposer to retain any RECs generated for their sole use or sale.

## **2.0 Minimum Requirements**

**2.1 Electricity Exemption.** The procurement of electricity is exempt from Texas competitive bid laws under Local Gov't Code §252.022(a)(15). Therefore, the City is following its own solicitation process and is not bound by past precedent or strict state solicitation requirements.

## **2.2 Financial Requirements**

2.2.1. To be eligible for selection, a respondent must have a long term debt rating from Standard & Poor's of at least "A", from Moody's of at least "A2", or an equivalent rating from Fitch. In the alternative, respondent may provide a

guarantor meeting these minimum financial standards with a commitment equal to the initial term of the PPA.

2.2.2 Proposers that are engaged in wholesale power and REC markets will be required to demonstrate to the City, corporate and financial capability and operational experience in the ERCOT electricity and REC markets, and have entered into appropriate offtake arrangements to satisfy the terms of the response.

## **2.3 Professional and Technical Experience**

2.3.1 To be eligible for selection, a respondent must have successfully developed, commissioned and operated a minimum of ten (10) MW of electric capacity using the technology or technologies proposed in its response.

2.3.2 Proposers are responsible for having or obtaining all necessary permits, licenses, and approvals associated with their proposals.

## **2.4. Expectations and Pricing**

A successful outcome to this RFP process will result in:

2.4.1 The development and commissioning of a new 30 MW Eligible Renewable Energy Resource on property owned by the City or at a location controlled by the Proposer but proximate to the incorporated City limits of Houston.

2.4.2 The negotiation and execution of a PPA between the City and the selected Proposer or through a Retail Electric Provider (REP) acceptable to the City in its sole discretion, for a term of not more than 20 years.

2.4.3 Energy pricing under the resulting power purchase agreement should be proposed in two parts:

- (a) Pricing per megawatt hour (MWh) for renewable energy for the term of the PPA. Pricing should be stated as a fixed rate with any proposed escalators however, preference will be given to proposals without escalators for the term of the PPA. Proposers are encouraged, to submit two distinct prices for the renewable energy that (a) delivers energy and all renewable energy credits (RECs) generated to the City and (b) delivers energy only allowing Proposer to retain any RECs generated for its sole use or sale.
- (b) Pricing per MWh for the balancing energy required to deliver the City a block of energy equal to the rated capacity of the renewable energy facility for all hours during the term of PPA. Proposer may suggest one or more price structures for the balancing energy and creative pricing proposals are encouraged to insulate the City from price volatility, variable energy production risk and congestion risk.

Pricing should be stated as a fixed rate, formula or index. If quoted as a fixed rate the methodology of determining this rate and any escalators must be noted.

2.4.4 In the event the selected Proposer has submitted pricing with and without the RECs associated with the energy generated by the renewable energy facility and the City elects to take title to the RECs, the successful Proposer will be required to register and comply with ERCOT's REC Trading Program.

2.4.5 The winning Proposer will be the party submitting the proposal that:

- (a) Provides the City with a high level of confidence that the proposal can be delivered at the location and within the timeframe described in the proposal based on current technology and the Proposer's demonstrated professional and technical expertise; and
- (b) Provides the City with the most attractive long-term financial alternative for the energy to be delivered during the term of the proposed PPA.

2.5 **MWBE Compliance.** The required Minority and Woman Business Entity (MWBE) percentage for this solicitation is zero. The Proposal Evaluation Committee will consider any proposed MWBE participation as a factor in the evaluation and selection process.

## 2.6 **Hire Houston First**

2.6.1 If the City receives one or more proposals from a Proposer that is a City Business and whose proposal price is within three percent (3%) of the lowest proposal price from a Proposer who is not a City Business, the City shall award the contract to either (a) the Proposer with the lowest price, or (b) the Proposer certified as a City Business with a price proposal within three percent (3%) of the lowest price. The provision is subject to City Ordinance Section 15-181 permitting the City to determine if an award to a City Business unduly interferes with the City's contract needs.

2.6.2 To be designated as a City Business for the purposes of the Hire Houston First Program, as set out in Article XI of Chapter 15 of the Houston City Code, a Proposer must submit the **Hire Houston First Application and Affidavit ("HHF Affidavit")** to the Director of the Mayor's Office of Business Opportunities and receive notice that the submission has been approved prior to award of a contract. Proposers are encouraged to secure a designation prior to submission of its proposal if at all possible.

2.6.3 Download the HHF Affidavit from the Office of Business Opportunities Webpage at the City of Houston e-Government Website at the following location:

<http://www.houstontx.gov/hbsc/hirehoustonfirstaffidavit.pdf>

2.6.4 Submit the completed application forms to: Mayor's Office of Business Opportunity, One Stop Business Center, 900 Bagby St., Public Level, Houston, TX 77002 or Applications may be submitted via e-mail to [HHF-MOBO@houstontx.gov](mailto:HHF-MOBO@houstontx.gov) or faxed to 832.393.0952 or Applications may be submitted with proposal response.

**3.0 Evaluation Criteria.** The award of this Contract will be made to the Proposer offering the response which best meets the needs of the City. The City may make investigations, as it deems necessary, to determine the capabilities of the Proposer, and the Proposer shall furnish to the City such data as the City may request for this purpose. The City reserves the right to reject any proposal if the evidence submitted by or the investigation of the Proposer fails to satisfy the below requirements. Each proposal will be evaluated on the basis of the following evaluation criteria:

3.1 Responsiveness. Compliance with the terms and conditions of this RFP, including submission of the required forms as explained in Section 6.2.9.

3.2 Technical Competence.

3.2.1 Proposal meets the scope and goals identified in Section 1.2, including the location and size of the proposed facility, its use of Renewable Energy Technologies, and anticipated PPA timeframe. Whether proposal includes energy storage (failure to include energy storage will not disqualify a proposal from consideration).

3.2.2 Financial capability as defined in Section 2.2.

3.2.3 Professional and technical experience as defined in Section 2.3.

3.2.4 Contract terms that are favorable to the City as defined in Sections 1.2.5, 2.4.2 and 4.0.

3.2.5 As stated in Section 2.5, the MWBE requirement for the PPA sought by this RFP is zero. Proposers are encouraged to include any plans they might have for the use of MWBE companies. Failure to include a MWBE component as described above will not disqualify a proposal for consideration.

3.4 Price. Renewable and balancing energy pricing as defined in Sections 1.2.6 and 2.4.3 for a facility that meets the location requirements in Sections 1.2.2 and 2.4.1, the size requirements in Section 1.2.3, the renewable energy technology requirements in Sections 1.2.4 and 2.4.1, and the RECs requirements in Section 2.4.4.

3.4.1 Price per mWh for renewable energy as described in Section 2.4.3 (a).

3.4.2 Price per mWh for the balancing energy as described in Section 2.4.3 (b).

3.4.3 The pricing submitted will be subject to the City's Hire Houston First requirements as explained in Section 2.6.

#### **4.0 Key Contract Terms**

4.1 Proposals should address the following key contract terms. Although the Proposer can provide exact contract language or a proposed PPA, it is not a requirement of the Proposal. The exact contract language will be provided to the leading Proposer during contract negotiations.

4.1.1 **Liquidated Damages.** The City will require liquidated damages in the event of the REP's default. The Proposal should set forth one or more options for consideration.

4.1.2 **Force Majeure.** Timely performance may be temporarily excused by a force majeure event. The Proposal should set forth what should and should not be included in the definition and scope of the force majeure clause as it applies to the seller and the buyer.

4.1.3 **Dispute Resolution.** The Proposal should include options or procedures for addressing the resolution of disputes. These options may not include arbitration.

4.1.4 **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.

4.1.5 **Release.** The successful Proposer will be required to release the City from all liability for injury, death, damage or loss to persons or property sustained in connection with or incidental to performance under the PPA.

4.1.6 **Indemnification.** The successful Proposer will be required to indemnify and hold the City harmless for all claims, causes of action, liabilities, fines and expenses for injury, death, damage or loss to persons or property sustained in connection with or incidental to its performance. In instances of concurrent negligence, this is limited to the statutory maximum or \$1,000,000, whichever is greater.

4.1.7 **Insurance if Not Located on City Property.** The Proposer should take the following insurance requirements into account when making its proposal. The issuer of any policy must have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category or Class VI or better.

- (a) Worker's compensation insurance: statutory amount.
- (b) Employer's liability: Employer's Liability: Bodily Injury by Accident \$1,000,000 (each accident), Bodily Injury by Disease \$1,000,000 (policy limit), Bodily Injury by Disease \$1,000,000 (each employee).
- (c) Commercial General Liability insurance including Bodily Injury, including death, Personal Injury and Property Damage, and a policy extension for Contractual Liability insurance: Combined single limit of \$1,000,000 (each occurrence). Defense costs shall be in addition to the policy limits, and the aggregate limits of the policy shall reinstate in each subsequent policy period.
- (d) Automobile Liability insurance (including Owned, Non-Owned and Hired Auto Coverage): \$1,000,000 combined single limit each occurrence.
- (e) Excess or Umbrella Coverage: \$3,000,000 each occurrence / combined aggregate in excess of the limits specified for Employer's Liability, Commercial General Liability, and Automobile Liability.

**4.1.8 Insurance if Located on City Property.** In addition to the requirements in Section 4.1.7, any proposal locating the renewable energy facility on City property should also take the following insurance requirement into account:

- (f) Commercial property insurance insuring 100% of the full replacement cost of the renewable energy facility including all other property owned or used by the Proposer and located at the facility; provided that during construction, the coverage shall take the form of an equivalent coverage policy of builder's risk insurance on a "completed value" form of policy.

**4.1.9 Inspections and Audits.** The PPA must give representatives of the City the right to perform, or to have performed audits of books, records, and support for invoices, adjustments and claims. The successful Proposer shall keep its books and records available for this purpose for at least 4 years after the PPA terminates.

**4.1.10 Applicable Law and Venue; Contract Interpretation.** The PPA shall be governed by the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction. The successful Proposer must consent to Venue for any litigation in Harris Counties, Texas. The PPA shall not be interpreted for or against either party regardless of who drafted it or a particular provision.

**4.1.11 Payment Terms.** The City's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later, according to the requirements of the Texas Prompt Payment Act (T. Gov't Code, Ch. 2251).

- (a) However, the City will pay in less than 30 days in return for an early payment discount from vendor as follows:
- Payment Time - 10 Days: 2% Discount
  - Payment Time - 20 Days: 1% Discount
- (b) A vendor may elect not to offer a discount for early payment and the City will make payment net 30 days. Discounts will not be considered in the award evaluation.
- (c) If the City fails to make a payment according to the early payment schedule above, but does make the payment within net 30 days, there may not be any penalty. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following business day.

**4.1.12 Proposer's Property Tax Debt.** The following clause is required to be in the PPA:

**IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.**

**4.1.13 Sovereign Immunity.** The City will not agree to any language that can be construed as waiving any of its immunities it possesses as a government entity.

## **4.2 Exceptions to Standard Terms and Conditions**

4.2.1 All exceptions included with the Proposal shall be submitted in a clearly identified separate section of the Proposal in which the Proposer clearly cites the specific paragraphs within the RFP where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting contract. The Proposer's preprinted or standard terms will not be considered by the City as a part of any resulting contract.

4.2.2 All Exceptions that are contained in the Proposal may negatively affect the City's Proposal evaluation based on the evaluation criteria as stated in the

RFP, or result in possible rejection of Proposal.

**4.3 Compliance with City Ordinances.** The forms required in Section 6.2.9 in order to comply with City Ordinances shall become part of the final PPA.

**5.0 Submittal Procedure**

**5.1 Procurement Timeline**

Listed below are important estimated dates for this RFP. The City may change these dates.

<u>EVENT</u>	<u>DATE</u>
Date of RFP Issued	Sept.26, 2014
Pre-Proposal Conference	Oct. 10, 2014
Questions from Proposers Due to City	Oct. 24, 2014
Proposals Due from Proposers	Nov. 20 2014

**5.2 Submittal Location and Deadline**

5.2.1 Five (5) copies of the Proposal, including one (1) printed original signed in **BLUE** ink, and additional four (4) electronic CD copies are to be submitted in a sealed envelope bearing the assigned Solicitation Number, located on the first page of the RFP document to:

City Secretary's Office  
City Hall Annex, Public Level  
900 Bagby Street  
Houston, Texas 77002

5.2.2 The deadline for the submittal of the Proposal to the City Secretary's Office is no later than the date and time as indicated on the first page of this RFP. Failure to submit the required number of copies as stated above may be subject for disqualification from the Proposal process.

5.2.3 Proposers may elect to either mail or personally deliver their proposals to the City Secretary's Office. Please label your proposals with your company name, address and proposal number.

5.2.4 The City of Houston shall bear no responsibility for submitting responses on behalf of any Proposer. Proposer may submit their Proposal to the City Secretary's Office any time prior to the stated deadline.

### 5.3 Submittal Format

5.3.1 The Proposal should be electronically generated, and the printed original signed in **BLUE** ink. They should not be submitted in elaborate or expensive binders. Legibility, clarity, and completeness are important and essential.

5.3.2 The Proposal must be signed by an individual(s) legally authorized to bind the Proposer, and must contain a statement that the Proposal and the prices contained therein shall remain firm for a period of one hundred-eighty (180) days.

### 5.4 General Instructions

5.4.1 This RFP does not commit the City of Houston to accept any proposals received, enter into a PPA with any Proposer or to pay any costs incurred in the preparation of a proposal in response to this request.

5.4.2 The proposals will become part of the City's official files without any obligation on the City's part. All proposals shall, to the extent provided by law, be held confidential from all parties other than the City until after the contract is awarded. Afterward, the proposals shall be available to the public.

5.4.3 The City of Houston shall not be held accountable if material from proposals is obtained without the written consent of the Proposer by parties other than the City, at any time during the proposal evaluation process.

5.4.4 In the event a Proposer submits trade secret information to the City, the information must be clearly labeled as a "**Trade Secret.**" The City will maintain the confidentiality of such trade secrets to the extent provided by law.

5.4.5 Proposer shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the City of Houston (including any and all members of Proposal Evaluation Committees).

5.4.6 Proposer shall not collude in any manner, or engage in any practices, with any other Proposer, which may restrict or eliminate competition, or otherwise restrain trade. This is not intended to preclude subcontracts and joint ventures for the purposes of: (a) responding to this RFP; or (b) establishing a project team with the required experience or capability to provide the goods or services specified in the RFP. Conversely, the City can combine or consolidate a proposal, or portions thereof, for the purposes mentioned above.

5.4.7 All proposals submitted must be the original work product of the Proposer. The copying or paraphrasing of the work product of another Proposer without proper consent is not permitted.

5.4.8 The RFP and the related responses of the selected Proposer will by reference (within either a contract or purchase order) become part of any formal agreement between the selected Proposer and the City. The City and the selected Proposer may negotiate a Contract or contracts for submission to City Council for consideration and approval. In the event an agreement cannot be reached with the selected Proposer, the City reserves the right to select an alternative Proposer. The City reserves the right to contemporaneously negotiate with an alternative Proposer the exact terms and conditions of the contract.

5.4.9 Proposer, its authorized representatives, and its agents are responsible for obtaining, and will be deemed to have, full knowledge of the conditions, requirements, and specifications of the RFP at the time a proposal is submitted to the City.

5.4.10 The PPA shall become effective on or about **June 30, 2016** for a term not to exceed twenty (20) years. The City reserves the option of extending the PPA on an annual basis for two (2) additional five (5) year terms.

5.4.11 In the event the location of the renewable energy facility submitted by the selected Proposer is to be located on City owned property and if it is deemed necessary for the development and commissioning of the proposed facility, the City may provide reasonable working space to the Proposer during the construction and commissioning phases of the facility.

5.4.12 The City may terminate its performance under a contract in the event of a default by the successful Proposer and a failure to cure such default after receiving notice of default from the City. Default may result from the Proposer's failure to perform under the terms of the power purchase agreement or from the Proposer becoming insolvent, having a substantial portion of its assets assessed for the benefit of creditors, or having a receiver or trustee appointed.

5.4.13 The City has sole discretion and reserves the right to cancel this RFP, or to reject any or all proposal received prior to contract award.

5.4.14 The City reserves the right to waive any minor informality concerning this RFP, or to reject any or all proposals or any part thereof.

5.4.15 The City reserves the right to request clarity of any proposal after it has been received.

5.4.16 The City reserves the right to select elements from different individual proposals and to combine and consolidate them in any way that best serves the City's interest. The City reserves the right to reduce the scope of the RFP and evaluate only the remaining elements from all proposals. The City reserves the right to reject specific elements contained in all proposals and to complete the

evaluation process based only on the remaining items. In the event of the above elections by the City, the effected Proposer shall have the right to withdraw from the RFP without further obligation or liability.

5.4.17 The selected successful Proposer must furnish a "Certificate of Registration" which authorizes them to conduct business in the State of Texas prior to the awarding of the contract. Such certified registration can be obtained from the Texas Secretary of State's Office.

5.4.18 Proposer assumes total responsibility for the quality and quantity of all work performed, whether it is undertaken by the Proposer or is subcontracted to another organization.

5.4.19 If subcontractor involvement is required in the use of license, patent, or proprietary process, the Proposer is responsible for obtaining written authorization from the subcontractor to use the process, or provide another process comparable to that which is required and which is acceptable to the City, all at no additional cost or liability to the City.

5.4.20 As used in this RFP, the term "Proposer" includes both the singular and plural so that one or more entities or firms may combine their talents to submit a single proposal in order to deliver a solution and the collective minimum requirements sought by the City. The Offer and Submittal Form, required in Section 6.2.2, must be signed by each of the entities or firms constituting the "Proposer."

## **6.0 Proposal Outline and Contents**

6.1 The proposal contents should be identified by section, description, page number and should include, at a minimum, the following sections. All forms can be downloaded using the links contained in **Exhibit B**.

6.2 Sections:

6.2.1 Title Page. The title page should include the title and number of the RFP, name and address of the Proposer, and the date of the proposal.

6.2.2 Offer and Submittal Form. PROPOSAL MUST BE SIGNED AND NOTORIZED BY AN AUTHORIZED REPRESENTATIVE(S) OF THE PROPOSER, WHICH MUST BE THE ACTUAL LEGAL ENTITY THAT WILL PERFORM THE CONTRACT IF AWARDED AND THE PRICE CONTAINED IN THE PROPOSAL FOR THE ENERGY PRODUCED FROM THE RENEWABLE ENERGY FACILITY SHALL REMAIN FIRM FOR A PERIOD OF ONE-HUNDRED EIGHTY (180) DAYS FROM THE DATE THE SELECTED PROPOSER IS NOTIFIED THAT THEY ARE THE PARTY WITH WHOM THE CITY DESIRES TO PURSUE NEGOTIATIONS OF THE POWER PURCHASE AGREEMENT.

6.2.3 Letter of Transmittal. A letter of transmittal shall include the following:

- (a) The names, titles, addresses, and telephone numbers of the individuals who are authorized to make representation on behalf of the Proposer.
- (b) A statement that the proposed price is the total price for electricity.
- (c) A statement that the person signing the letter of transmittal is authorized to legally bind the Proposer.

6.2.4 Professional and Technical Experience.

- (a) Provide the information necessary to meet the requirements in Section 2.3, Professional and Technical Experience.
- (b) Provide a brief statement describing the Proposer's background information, history, resources and track record developing, commissioning and operating a minimum of then (10) MW of renewable energy technologies. Please limit to three (3) pages.

6.2.5 Description of Eligible Renewable Energy Resource Proposal.

- (a) Provide the information, strategy and plan necessary to meet the requirements in Section 1.2, RFP Scope.
- (b) Identify the location or locations using street address. Identify the owner of the real estate and the means by which the Proposer will gain access and use of the site.
- (c) Identify the type and nature of the renewable energy resources.
- (d) Identify whether energy storage is part of the proposal, and how it will be achieved and operated.
- (e) Identify the anticipated quantity of energy and associated RECs to be generated by the renewable energy facility annually for the term of the power purchase agreement.

6.2.6 Price Proposal. Provide the information required to meet the requirements of Section 2.4.3. The proposal may contain one or more alternatives.

6.2.7 Financial Information.

- (a) Provide the information necessary to meet the requirements in Section 2.2, Financial Requirements.

- (b) Provide audited financial statements or Dunn & Bradstreet Reports for the last two years.

#### 6.2.8 Contract Terms.

- (a) Provide the information required to meet the requirements of Section 4.1, Key Contract Terms.
- (b) The proposal may contain a proposed PPA or key provisions for the City's consideration, but is not required to. The City plans to provide a PPA during negotiations.
- (b) The proposal must contain any objections or exceptions per Section 4.2, Exceptions to Standard Terms. The proposal may offer alternative provisions. Unreasonable or excessive exceptions, however, may negatively affect the City's evaluation or result in rejection of the proposal.

6.2.9 Required City Forms. The following must be included in the proposal package, and must be fully executed. Failure to include any of these items may cause the proposal to be deemed non-responsive and rejected. These forms, or the links to download them from the City's website, are contained in **Exhibit B**, **Exhibit C** and **Exhibit D**.

- (a) **Fair Campaign Ordinance Form.** The City of Houston Fair Campaign Ordinance makes it unlawful for a Proposer or contractor to offer any contribution to a candidate for City elective office. For purposes of this ordinance a contract is defined as any contract for goods or services having a value in excess of \$30,000 or more, regardless of the way by which it was solicited or awarded.
- (b) **Affidavit of Ownership or Control.** City Council requires knowledge of the identities of the owners of entities seeking to contract with the City in order to review their indebtedness to the City prior to entering into contracts. Therefore, all Proposers to this RFP must comply with Houston Code of Ordinances Chapter 15, as amended (Sections 15-122 through 15-126) relating to the disclosure of owners of entities bidding on, proposing for or receiving City contracts.
- (c) **Anti-Collusion Statement.** All Proposers must certify it's compliance with Houston Code of Ordinance Chapter 15, as amended (Sections 15-1 through 15-3) relating to practices the City considers potentially collusive.
- (d) **Conflict of Interest Questionnaire.** Texas law requires submission of a Conflict of Interest Questionnaire. If it is not applicable, please write "not applicable" and execute.

- (e) **Statement of Residency.** Texas law requires every Proposer to affirmatively state its principal place of business.
- (f) **Hire Houston First Affidavit.** If applicable, the Proposal should include a copy of the proposer's Hire Houston First (HHF) Affidavit, and either (i) its HHF certification from the Office of Business Opportunity, or (ii) evidence that the Proposer has submitted the required information and is waiting for final certification.

## **7.0 Proposal Process**

### **7.1 Pre-Proposal Conference and Site Inspections.**

7.1.1 A Pre-Proposal Conference will be held at the date, time, and location as indicated on the first page of the RFP document.

7.1.2 Interested Proposer(s) should plan to attend. It will be assumed that potential Proposer(s) attending this meeting have reviewed the RFP in detail, and are prepared to bring up any substantive questions not already addressed by the City.

7.1.3 Questions regarding the scope of the project, technical specifications, proposed applications, etc., may be addressed to the project manager at the Pre-Proposal conference.

### **7.2 Additional Information and Specification Changes**

Requests for additional information and questions should be addressed to Conley Jackson (City Representative) no later than 2:00 P.M., CST, October 24, 2014.

Finance Department  
Strategic Purchasing Division Buyer  
Mr. Conley Jackson  
Telephone: 832.3933  
Fax: 832.393.8759  
E-mail (preferred method to): **conley.jackson@houstontx.gov**

The City shall provide written response to all questions received in writing before the submittal deadline. Questions received from all Proposers shall be answered and sent to all Proposers who are listed as having obtained the RFP. Listed Proposers shall be notified in writing of any changes in the specifications contained in this RFP.

### **7.3 Letters of Clarification**

7.3.1 All Letters of Clarification and interpretations to this Solicitation shall be in writing. Any Letter of Clarification or interpretation that is not in writing shall not legally bind the City of Houston. Only information supplied by the City of Houston in writing or in this RFP should be used in preparing Proposal responses.

7.3.2 The City does not assume responsibility for the receipt of any Letters of Clarification sent to Proposers.

### **7.4 Examination of Documents and Requirements**

7.4.1 Each Proposer shall carefully examine all RFP documents, including any Letters of Clarification, and thoroughly familiarize themselves with all requirements prior to submitting a Proposal to ensure that the Proposal meets the intent of this RFP.

7.4.2 Before submitting a Proposal, each Proposer shall be responsible for making all investigations and examinations that are necessary to ascertain conditions and requirements affecting the requirements of this RFP. Failure to make such investigations and examinations shall not relieve the Proposer from obligation to comply, in every detail, with all provisions and requirements of the RFP.

### **7.5 Post-Proposal Discussions with Proposers**

It is the City's intent to commence final negotiation with the Proposer deemed most advantageous to the City. The City reserves the right to conduct post-Proposal discussions with any Proposers.

### **7.6 Protest Procedures**

7.6.1 A protest shall comply with and be resolved, according to the City of Houston Procurement Manual:

[http://purchasing.houstontx.gov/docs/Procurement\\_Manual.pdf](http://purchasing.houstontx.gov/docs/Procurement_Manual.pdf) and rules adopted thereunder. Protests shall be submitted in writing and filed with both, the City Attorney and the Solicitation contact person. A pre-award protest of the RFP shall be received five (5) days prior to the solicitation due date and a post-award protest shall be filed within five (5) days after City Council approval of the contract award.

7.6.2 A protest shall include the following:

- (a) The name, address, e-mail, and telephone number of the protester;

- (b) The signature of the protester or its representative who has the delegated authority to legally bind its company;
- (c) Identification of the RFP description and the RFP or contract number;
- (d) A detailed written statement of the legal and factual grounds of the protest, including copies of relevant documents, etc.; and
- (e) The desired form of relief or outcome, which the protester is seeking.

## **7.7 No Contact Period**

7.7.1 Neither Proposers nor any person acting on Proposer's behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City of Houston, their families or staff members.

7.7.2 All inquiries regarding the solicitation are to be directed to the designated City Representative identified on the first page of the solicitation.

7.7.3 Upon issuance of the solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award, aside from Proposer's formal response to the solicitation, through the pre-award phase, written requests for clarification during the period officially designated for such purpose by the City Representative, neither Proposer(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City of Houston, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any Proposer.

7.7.4 However, nothing in this Section shall prevent a Proposer from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

## EXHIBIT A

### CITY OWNED PROPERTIES

The following City owned properties are available to the Proposer to consider locating all or part of its Eligible Renewable Energy Resource. It is not a requirement that the proposal use any City owned property.

The City makes no representation or warranties that any of the properties listed here are suitable for an Eligible Renewable Energy Resource. It merely represents that they are available.

If the location of the renewable energy facility submitted by the selected Proposer is to be on one or more of the properties listed below, the facilities will be removed and the location returned to its original condition following the termination of the power purchase agreement and any optional extension periods the City may choose to exercise.

This list is subject to change in accordance with Section 6.3, Letters of Clarification.

1. Ellington Airport – Up to 300 acres in the northeast quadrant of the airport grounds. The physical address of the Airport is 510 Ellington Field, Houston, Texas 77034.
2. Belfort Landfill – 299.5 acres on the site of a former landfill. The physical address for the property is 3300 Belfort St., Houston, Texas 77051.

**EXHIBIT B**  
**LINKS TO CITY FORMS**

**Forms Required to be Submitted with Proposal:**

- 1 **Offer and Submittal Form per Section 6.2.2:**  
(Contained in **Exhibit C**)
- 2 **Fair Campaign Ordinance per Section 6.2.9(a):**  
<http://purchasing.houstontx.gov/forms.shtml>
- 3 **Affidavit of Ownership or Control, Doc. 00455, per Section 6.2.9(b):**  
<http://purchasing.houstontx.gov/forms.shtml>
- 4 **Anti-Collusion Statement per Section 6.2.9(c):**  
(Contained in **Exhibit D**)
- 5 **Conflict of Interest Questionnaire per Section 6.2.9(d):**  
<http://purchasing.houstontx.gov/forms.shtml>  
or <http://www.ethics.state.tx.us/forms/CIQ.pdf>
- 6 **Statement of Residency per Section 6.2.9(e):**  
<http://purchasing.houstontx.gov/forms.shtml>
- 7 **Hire Houston First Affidavit per Section 2.6 and Section 6.2.9(f):**  
<http://www.houstontx.gov/hbsc/hirehoustonfirstaffidavit.pdf>  
  
<http://www.houstontx.gov/obo/hirehoustonfirst.html>

**Other City of Houston Forms to Review and Be Familiar With:**

**City of Houston Required Certificate of Insurance:**

[http://purchasing.houstontx.gov/forms/City%20of%20Houston%20Certificate%20of%20Insurance%20Form%20HOU2%20Final%202014%20\(1st%202%20pages\).doc](http://purchasing.houstontx.gov/forms/City%20of%20Houston%20Certificate%20of%20Insurance%20Form%20HOU2%20Final%202014%20(1st%202%20pages).doc)

**Sample Insurance Endorsements:**

[http://purchasing.houstontx.gov/forms/Sample\\_Insurance\\_Endorsements.pdf](http://purchasing.houstontx.gov/forms/Sample_Insurance_Endorsements.pdf)

**EXHIBIT C**

**OFFER AND SUBMITTAL FORM**

NOTE: PROPOSAL MUST BE SIGNED AND NOTORIZED BY AN AUTHORIZED REPRESENTATIVE(S) OF THE PROPOSER, WHICH MUST BE THE ACTUAL LEGAL ENTITY THAT WILL PERFORM THE CONTRACT IF AWARDED AND THE TOTAL FIXED PRICE CONTAINED THEREIN SHALL REMAIN FIRM FOR A PERIOD OF ONE-HUNDRED EIGHTY (180) DAYS.

"THE PROPOSER WARRANTS THAT NO PERSON OR SELLING AGENCY HAS BEEN EMPLOYED OR RETAINED TO SOLICIT OR SECURE THIS CONTRACT UPON AN AGREEMENT OR UNDERSTANDING FOR A COMMISSION, PERCENTAGE, BROKERAGE, OR CONTINGENT FEE, EXCEPTING BONA FIDE EMPLOYEES. FOR BREACH OR VIOLATION OF THIS WARRANTY, THE CITY SHALL HAVE THE RIGHT TO ANNUL THIS AGREEMENT WITHOUT LIABILITY OR, AT ITS DISCRETION, TO DEDUCT FROM THE CONTRACT PRICES OR CONSIDERATION, OR OTHERWISE RECOVER THE FULL AMOUNT OF SUCH COMMISSION, PERCENTAGE, BROKERAGE OR CONTINGENT FEE."

Respectfully Submitted:

\_\_\_\_\_  
(Print or Type Name of Proposer – Full Company Name)

City of Houston Vendor No. (If already doing business with City): \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Authorized Officer or Agent)

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

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

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

Address of Proposer: \_\_\_\_\_  
Street Address or P.O. Box

\_\_\_\_\_  
City – State – Zip Code

Telephone No. of Proposer: (\_\_\_\_\_) \_\_\_\_\_

Signature, Name and title of Affiant: \_\_\_\_\_

\_\_\_\_\_  
(Notary Public in and for)

\_\_\_\_\_ County, Texas

My Commission Expires: \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

**EXHIBIT D**  
**ANTI-COLLUSION STATEMENT**

The undersigned, as Proposer, certifies that the only person or parties interested in this Proposal as principals are those named herein; that the Proposer has not, either directly or indirectly entered into any Agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the award of this Contract.

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Date

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Proposer Signature