

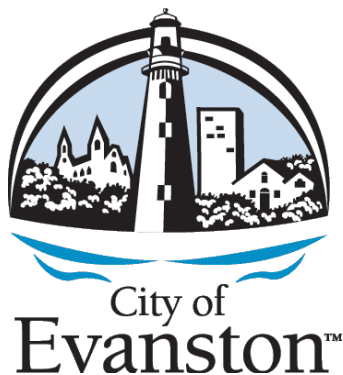
**CITY OF EVANSTON**  
**REQUEST FOR PROPOSAL**

**NUMBER: 23-38**

**For**

**A Solar Power Purchase Agreement at the Robert Crown Community Center**

**August 3, 2023**



**PROPOSAL DEADLINE: 2:00 P.M., September 12, 2023**

**NON-MANDATORY  
PRE-PROPOSAL MEETING: 3:30 P.M., August 21, 2023  
Robert Crown Community Center  
1801 Main St, Evanston, IL 60202**

**ELECTRONIC BID SUBMITTAL:**

Bid responses will only be accepted electronically  
via E-bidding through DemandStar ([WWW.DEMANDSTAR.COM](http://WWW.DEMANDSTAR.COM))

**It is highly recommended that new DemandStar users complete the account  
setup process prior to project due date/time.**

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DemandStar- E-bidding Instructions (14 pages)

**CITY OF EVANSTON  
NOTICE TO PROPOSERS**

Proposals will be received by the Purchasing Office until 2:00 P.M. local time on **September 12th, 2023**. Effective immediately, the City of Evanston will no longer accept hard copy paper submittals for any solicitation. Responses will only be accepted electronically via E-bidding through DemandStar ([www.demandstar.com](http://www.demandstar.com)). Although registration is required, vendors can download solicitations and upload responses for free. Proposals shall cover the following:

**A Solar Power Purchase Agreement at the Robert Crown Community Center**

**RFP Number: 23-38**

The City of Evanston's Sustainability Division in conjunction with the City's Facilities & Fleet Management Division, the City's Engineering Bureau, and the Parks and Recreation Department is seeking proposals from experienced proposers for the finance, design, construction, installation, operation, and maintenance of a new rooftop-mounted solar generation system to facilitate a Solar Power Purchase Agreement at the Robert Crown Community Center.

There will be a non-mandatory pre-proposal meeting August 21, 2023, at 3:30 p.m. All proposers intending to submit a proposal for this project are encouraged to attend to discuss the proposed work and receive answers to questions related to the project.

The above item shall conform to the RFP on file in the Purchasing Office. Parties interested in submitting a proposal should contact the Purchasing Office to receive a copy of the RFP or see the City's website at: [www.cityofevanston.org/business/bids-proposals/](http://www.cityofevanston.org/business/bids-proposals/) or Demandstar at: [www.demandstar.com](http://www.demandstar.com).

The City (the City of Evanston) in accordance with the laws of the State of Illinois, hereby notifies all proposers that it will appropriately ensure that the contract(s) entered into pursuant to this notice will be awarded to the successful proposer without discrimination on the grounds of race, color, religion, sex, age, sexual orientation marital status, disability, familial status or national origin. The State of Illinois requires under Public Works contracts that the general rate of wages in this locality be paid for each craft or type of worker hereunder. This requirement is in accordance with The Prevailing Wage Act (820 ILCS 130) as amended. The City of Evanston reserves the right to reject any or all submittals or to accept the submittal(s) deemed most advantageous to the City.

The Evanston City Council also reserves the right to award the contract to an Evanston proposer if that proposer's bid is within 5% of the low bid.

Each Proposer shall be required to submit with his/her proposal a Disclosure of Ownership Interest Statement Form in accordance with Section 1-18-1 *et seq.* of the

City Code. Failure to submit such information may result in the disqualification of such proposal.

John Gonzalez  
Purchasing Specialist

**CITY OF EVANSTON**  
**Request for Proposal**

**1.0 INTRODUCTION**

The City of Evanston (“City”) is issuing this Request for Proposals (“RFP”) to solicit proposals from qualified on-site solar electric power (“photovoltaic” or “PV”) project developers (“Proposer”) interested in the development of a solar power generation system (“solar power” or “System”). Currently, it is contemplated that the individual System to be developed will not exceed 1 Megawatt (MW) in capacity at the Robert Crown Community Center.

The City anticipates entering into a power purchase agreement (“PPA”) with one successful Proposer for the purchase of electricity generated by the System once they become commercially operational. The contract term desired is for a minimum of 20 years until 2044 or until the end of life for the entire System as defined by the Proposer.

The City intends to purchase all electricity generated by the System on an on-going basis through the full term of the PPA. Ultimately, the City’s goal is to both reduce its metered energy consumption from the local electric utility, and to lower its energy costs by entering into a contract with the Proposer selected in this procurement. Reducing the City’s metered energy consumption supports the City’s goal to deploy local onsite renewable electricity in accordance with the 2018 Climate Action & Resilience Plan. The City looks to lead by example through demonstrating the feasibility of meaningful solar PV projects within the City.

Contact with City personnel in connection with this RFP shall not be made other than as specified in this RFP. Unauthorized contact of any City personnel may be cause for rejection of a proposal.

Prior to the submittal of a proposal, Proposers are advised to carefully examine

- the contract documents
- project scope and work tasks to be accomplished
- specifications
- submittal requirements
- insurance requirements and required documentation

Proposers are advised to become thoroughly familiar with all conditions, instructions and specifications governing this RFP. Proposals shall be made in accordance with these instructions. Proposals shall be submitted on the forms provided by the City

The City will not be liable in any way for any costs incurred by proposers in replying to this Request for Proposal.

## 2.0 SCOPE OF SERVICES

The selected developer(s) will be required to develop, at no upfront cost to the City, a PV System for the Robert Crown Community Center (the "Project"). Pursuant to the terms and conditions of the applicable PPA, the City will purchase electricity from the System once it becomes commercially operational.

The City makes no representations with respect to the accuracy or completeness of any of the information provided as part of this RFP regarding the site, including its suitability. All provided information has been checked for accuracy, but errors or omissions may exist, for which the City shall have no liability. Proposers take sole and full responsibility for conducting any necessary due diligence and assessing the site and their conditions in developing their proposals. Such assessment of the site and its conditions shall be performed by the Proposer at its own cost.

The City desires to engage a developer with the technical capability necessary to realize the City's objectives set forth in this RFP. **Section 5** includes additional requirements to meet the City's desires.

## 3.0 INSURANCE

Consultant shall carry and maintain at its own cost with such companies as are reasonably acceptable to City all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement, for damages caused or contributed to by Consultant, and insuring Consultant against claims which may arise out of or result from Consultant's performance or failure to perform the Services hereunder.

The consultant must provide an insurance certificate naming the City of Evanston as an additional insured and will provide a variety of insurances including:

- Comprehensive general liability - \$3,000,000 combined single limit for each occurrence for bodily injury and property damage – designating the City as Additional Insured
- Workers Compensation - Statutory Limits
- Automobile Liability - \$1,000,000 per occurrence for all claims arising out of bodily injuries or death and property damages.
- Errors and omissions or professional liability insurance - \$1,000,000

The surety and the insurance company must have not less than an A+ rating from the Alfred M. Best Co., Inc. and be approved by the City of Evanston.

Consultant's certificate of insurance shall contain a provision that the coverage afforded under the policy(s) will not be canceled or reduced without thirty (30) days prior written notice (hand delivered or registered mail) to City.

## 4.0 SUBMITTAL REQUIREMENTS

The City will no longer accept hard copy paper submittals for any solicitation. Responses will only be accepted electronically via E-bidding through DemandStar. Proposers are still required to complete all of the bid documents and provide all of the requested information in a pdf file(s). **Please refer to attached DemandStar e-bidding documents.**

ANY PROPOSALS RECEIVED AFTER THE SUBMITTAL DEADLINE WILL NOT BE ACCEPTED. It is the sole responsibility of the proposer to ensure that his or her proposal is delivered by the stated time. THE CITY IS NOT RESPONSIBLE FOR INCOMPLETE UPLOADED SUBMITTALS.

### A. Cover Letter

The cover letter will include the following:

- introduction of proposer signed by an authorized Principal of the proposer
- name of proposer
- address of proposer
- phone number of the proposer submitting the proposal
- include the name and signature of an authorized binding official who is authorized to answer questions regarding the proposer's proposal

### B. Qualifications and Experience of Proposer and/or Team

- All proposers shall describe other contracts (at least 5, but no more than 10) similar in scope, size or discipline to the required services described herein, performed or undertaken within the past five years.
- The proposer must provide references, including name, address and telephone number of a contact person for each project identified and described.
- Indicate commencement dates, duration and type of operation.
- Provide a list of all Municipal clients in Illinois.
- Proposers are to complete the Experience Form contained in **Attachment C** providing additional information demonstrating relevant project experience in terms of project type, size, client type, and financing mechanism. Proposers shall identify, in the past three (3) years, the number of installations completed in the Government sector listing PV system sizes and broken down by system type: ground mount, roof mount, parking lot, and parking garage.

### C. Project Manager(s)

Clearly identify the professional staff person(s) who would be assigned as your Project Manager(s) and provide resumes. The proposal should indicate the abilities, qualifications and experience of these individuals.



**D. Fees**

Provide a copy of your proposed electricity rates/prices on the attached price/costs form (see pages 47-50).

**E. Contract**

The City has attached its standard contract in Attachment G (see page 67– Solar Power Purchase Agreement (“PPA”)). Identify all exceptions to the agreement that would prevent your Proposer from executing it. The City shall not consider or negotiate regarding exceptions submitted after the Proposer has submitted its proposal.

**5.0 ADDITIONAL SUBMISSION REQUIREMENTS**

- A. Technical Proposal.** The solar power generation System proposed under this RFP must conform to industry best practices and the requirements described in detail in **Attachment A.4**, along with site information provided in **Attachments A.2 and A.3**, and any addenda issued as a result of the site walks.

The City desires to engage a developer with the technical capability necessary to realize the City’s objectives set forth in this RFP. Submittals should address the following items:

The Technical Proposal shall describe the equipment, materials, and methods the Proposer would employ if selected. Proposers shall provide a narrative that describes the equipment and systems proposed and discuss why these were selected as the optimal choice. This section shall include:

- Proposed System Overview: Technical narrative that describes the proposed systems, including but not limited to: general considerations, rated kWh DC capacity, expected kWh AC output in the first year and over a twenty (20) year period, mounting approach (tilt, tracking), and total area required for the PV System at each site in the applicable Project.
- Proposed Equipment List: Model, technical specifications, quantity and characteristics of: modules, inverters, mounting structures, tracking system (if any), generation meters, Data Acquisition System (DAS) and monitoring system. The Technical proposal will describe the availability, supply and quality of proposed equipment. Technical spec sheets should be included in this section.
- Monitoring System Preliminary Design: Overview of the proposed Data Acquisition System (DAS), including quantity and model of proposed sensors, data acquisition hardware and software, screenshots of proposed solutions and IT requirements. Proposers shall identify requirements for connecting the DAS to the Internet.

- Monitoring / Data Presentation Information: Specifications of proposed monitoring software, including screenshots of user interface and system diagnostic capabilities, as well as hosting requirements, performance data and billing management plan and processes.
- Data Sharing: Proposer will have a clear process to communicate timely key metrics including but not limited to monthly generation in kWh for both staff and the public. Data sharing will be led and or fostered by the Proposer in a way that integrates timely educational data into existing display boards at the site. Additional signage is likely undesirable but may be considered.
- Maintenance: Proposers shall communicate how monitoring and simulation technologies are used to ensure preventative maintenance. Maintenance plans should be clearly documented to indicate if a third party separate from the Proposer will be responsible. A copy of all maintenance records will be forwarded to the City's Facilities & Fleet Management Division.
  - I. Maintenance plans should take into consideration that the City will retain access to the roof perimeter to perform tasks such as gutter cleanings.
  - II. A 24hr notice including safety and security measures such as checking IDs and or uniforms will be required.
- End of Life: Considerations for the entire lifecycle of System components should be formally addressed with a plan or current practices provided. Proposer will be responsible for removal of solar panels at the end of life phase if the City does not exercise its purchase option. This will include recycling glass, aluminum, plastic, copper wiring, cadmium, and various other metals used in the panels. This process can be achieved through solar panel reuse/refurbishment, mechanical recycling, or chemical recycling.
- Supporting Data: Proposer shall submit, in **Attachment B**, proposed quantity and model of modules and inverters being proposed. Proposers shall also submit annual estimated production data copied and pasted into the appropriate cells in **Attachment B**. Proposer must also submit estimated production results report(s) from NREL's PVWatts™ Calculator (<http://pvwatts.nrel.gov/>) for each site. In Phase 2 of this procurement, the selected Proposer will be required to provide more detailed information regarding the details of their proposed systems including estimated production data using software such as PVsyst or other industry leading tools.

**B. Description of the Proposed Project Approach.** The Proposal shall include:

- A description of the approach Proposer will use to design, procure long lead time equipment, construct, and commission the solar power generation systems
- How Proposer will comply with the requirements of the RFP, obtain timely permits and approvals, and accommodate ongoing operations during construction, including how Proposer intends to meet the City's schedule.
- Current practices related to decommissioning or a plan for the eventual decommissioning of the Project.
- Describe the Proposer's approach to project and construction management, maintenance, document control, and Project administration including risk mitigation and escalation processes.
- The Proposal shall also describe quality assurance procedures and safety plans.
- The Proposal shall contain a description of Proposer's strategy for communicating with the City and assisting the City in its efforts to achieve the overall objective(s) for this Project. This part shall not exceed ten (10) pages.

**C. Project Cost.** Each Proposer is required to complete **Attachment B** to be considered for this Project. The Proposer will be evaluated based on the anticipated levelized cost of energy over a period of up to 20-years (including the costs of operations and maintenance). Proposers shall provide information and cash-flow modeling with transparent methodology.

**D. Implementation Plan & Schedule.** The Project schedule and timetable should be complete, realistic, with risk mitigation and escalation processes, and appropriate for the relevant Project. The submission should demonstrate the Proposer's methodology for management of multiple projects with concurrent construction timelines.

**E. Financing Plan & Financing Partners.** The Proposer will be evaluated based on its financial stability and ability to provide timely financing. Proposers should address in detail their anticipated funding for the Project as well as their prior experience with any proposed financing partners on comparable projects. Proposers should detail why their proposed financing plan would offer the best value to the City. Additionally, Proposers should detail potential revenues resulting from the sale of solar Renewable Energy Credits generated by the Project and the potential purchasers of the RECs. The selected Proposer will provide information on the City's options to retain and retire the RECs associated either with the entire Project or a portion of the System generation, and the cost differences. Each Proposer must demonstrate to the City that it has access to capital on terms and conditions that will allow it to construct the System on competitive terms. Proposers must also establish that they have sufficient bonding from a surety licensed in Cook

County to undertake the construction at the site in the applicable Project. In this regard, Proposers must specify the total bonding that the surety will issue for all of the Proposer's work including uncompleted contracts.

**F. Financing Methodologies.** All Proposers must address the financing methodologies they intend to use for the Project on which they are bidding. This part shall not exceed ten (10) pages. Each Proposer must:

- Describe the structure of its partnership with the financial partners it anticipates will be used for this Project. If self-financing, please describe the financing plan, the source of funding and number of projects that the prime proposer has financed utilizing this methodology.
- Please describe any additional sources of federal or other funding that may be deployed for this Project. If the additional sources are a loan or credit support, please provide indicative metrics (principal payments, interest rates, debt service schedules, final maturity, etc.).
- Identify whether the prime proposer has ever filed for bankruptcy or experienced a delayed renewable energy generation project that resulted from a lack of available funding and/or a loss of funding to a client due to the inability to secure a financial partner. If yes, please explain.
- Provide representation that the prime proposer and anticipated financial partners have not, nor has any of the members of its governing board or principal officers, been indicted or convicted of fraud, corruption, collusion, bribery, or money laundering. If Proposer is unable to warrant, then describe the circumstances.
- Those Proposers proposing an alternate financing mechanism must:
  - Describe the mechanisms and provide indicative metrics (principal payment structure, interest rates, debt service schedules, final maturity, up-front fees, credit requirements, demographic requirements, etc.)
  - Provide examples and references of similar successful financing placements using the proposed method(s).
  - Provide a discussion on the difficulty of implementation and a description of the financing timeline.

**G. Form of PPA.** To assist the City, each Proposer is required to submit a redline version of the draft form of PPA as found in **Attachment G**. Any recommended changes or deletions to the draft form of PPA shall be consistent with the requirements of Section B.3.3. Proposers are cautioned that nothing herein shall require the City to use any particular form of PPA in Phase 2.

**H. Implementation Plan.** Proposers are to provide a detailed Gantt style schedule describing all phases of the Project and Proposer's services, major milestones, task dependencies, associated with designing, permitting, and installing the Systems.

This implementation narrative shall include the financing strategy and timing, the procurement strategy for equipment and materials, steel fabrication plan, workforce plan, staging, construction, equipment installation, acceptance testing, project close-out, and commitment from financial partners and suppliers and/or manufacturers substantiating the availability of major long lead-time equipment or resources to meet the proposed schedule. The implementation plan, excluding the schedule, should be no more than five (5) pages in total and shall cover the applicable Project.

**J. Legal Actions.** Provide a listing and description of all legal actions of the past three (3) years in which the proposer or any team member has been:

- A debtor in bankruptcy;
- A defendant in a lawsuit for deficient performance under a contract;
- A defendant in an administrative action for deficient performance on a project; and
- A defendant in any criminal action.

List all lawsuits, regulatory proceedings, or arbitration in which the Proposer or its affiliates or predecessors have been or are engaged in that could affect Proposer's performance of its bid. Also, Identify the parties involved in such lawsuits, proceedings, or arbitration, and the final resolution or present status of such matters.

## **6.0 M/W/D/EBE GOALS**

The City has a goal of 25% of the contract amount for the participation and utilization of Minority-Owned, Women-Owned, Disadvantaged and Evanston-based businesses (M/W/D/EBEs) in completing a portion of the services required by the City. All proposers must submit a statement of the proposed involvement of M/W/D/EBEs in completing a portion of the required services. Provide a copy of the certification for M/W/D/EBEs that will assist in achieving the M/W/D/EBE goal with your submittal as well as the appropriate M/W/D/EBE forms or Request for Waiver. Any questions regarding M/W/D/EBE compliance should be submitted in writing to Tammi Nunez Purchasing Manager at [tnunez@cityofevanston.org](mailto:tnunez@cityofevanston.org).

## **7.0 EVALUATION CRITERIA**

The City will select the successful proposer through an evaluation process based on the proposer meeting the specifications which are outlined in this RFP. A review committee will review in detail all proposals that are received. During the evaluation process, the City may require a Proposer's representative to answer questions with regard to the proposal and/or make a formal presentation to the review committee. The review committee will make a recommendation to award the contract based on the criteria set forth below. This contract will be forwarded to the City Council for final approval.

The evaluation criteria listed below will be used in the selection of the successful Proposer.

- A. Qualifications and Expertise
- B. Price
- C. Quality of Technical Content
- D. Project Approach
- E. Organization and Completeness of Proposal
- F. Willingness to Execute the City of Evanston's Solar Power Purchase Agreement
- G. M/W/D/EBE Participation

## **8.0 SELECTION PROCESS**

The City will select a firm on the basis of the responsiveness of the proposal to the RFP submittal requirements, the evaluation criteria stated above and the demonstrated willingness to execute an acceptable written contract. The City reserves the right to reject any or all proposals, and to request written clarification of proposals and supporting materials from the Proposer. While it is the intent of the City to award a single firm, the City reserves the right to award in part or in whole and to select multiple firms and/or individuals, depending on whichever decision is deemed to be most advantageous to the City. Responses may be rejected if the firm fails to perform any of the following:

- A. Adhere to one or more of the provisions established in this Request for Proposal.
- B. Demonstrate competence, experience, and the ability to provide the services described in this Request for Proposal.
- C. Submit a response on or before the deadline and complete all required forms.
- D. To fulfill a request for an oral presentation.
- E. To respond to a written request for additional information.

Discussions and/or interviews may be conducted with responsible firms that have submitted proposals in order to clarify certain elements. All proposals shall be afforded fair and equal treatment with respect to any opportunity for clarification. In conducting discussion, there shall be no disclosure of information derived from proposals submitted by competing firms. The selection shall be done by the City's review committee and will be recommended to the City Council for final approval.

If the City is unable to reach any sort of agreement with the selected firm, the City will discontinue negotiations with the selected firm and begin negotiations with the firm ranked second and so on until agreement is reached.

The firm to be recommended to the City Council will be the one whose proposal is determined to be the most advantageous to the City in consideration of price and all other evaluation factors which are set forth in this Request for Proposal. No other factors or criteria not listed in this RFP shall be used in the evaluation.

## 9.0 PROPOSED SCHEDULE

The tentative schedule for this RFP and project process is as follows:

1. RFP issued ..... August 03, 2023
2. Non-mandatory Pre-Proposal Conference  
and walk thru ..... August 21, 2023
3. Last Day to submit questions ..... August 28, 2023
4. Final Addendum Issued ..... August 31, 2023
5. RFP Submission Due Date ..... September 12, 2023
6. City Council Award of Contract ..... October 09, 2023
7. Contract Effective ..... November 13, 2023
8. Design ..... Expected from Proposer
9. Permitting ..... Expected from Proposer
10. Material Procurement ..... Expected from Proposer
11. Installation ..... Expected from Proposer
12. Commissioning ..... Expected from Proposer

## 10.0 QUESTIONS REGARDING RFP

All questions related to this RFP should be submitted in writing to John Gonzalez, Purchasing Specialist at [johngonzalez@cityofevanston.org](mailto:johngonzalez@cityofevanston.org) with a copy to Cara Pratt at [cpratt@cityofevanston.org](mailto:cpratt@cityofevanston.org).

## 11.0 GENERAL TERMS AND CONDITIONS

### A. Withdrawal of Proposal

Proposals may be withdrawn prior to the submission deadline. Withdrawal may be attained by written request; however, no offer can be withdrawn within the ninety (90) day period which occurs after the time is set for closing. Proposers who withdraw their proposals prior to the designated date and time may still submit another proposal if done in accordance with the proper time frame.

### B. Exceptions to Specifications

Exceptions to these specifications shall be listed and explained on a separate page titled "Exceptions to Specifications", which shall be prepared by the Proposer. This page shall then be attached to these documents and submitted at the same time as the proposal. Each exception must refer to the page number and paragraph to which it is relevant. The nature and reasoning of each exception shall be explained in its entirety. Any exceptions to these specifications may be cause for rejection of the proposal.

### C. Addenda

Any and all changes to these documents are valid only if they are included via written addendum to all respondents. Each respondent should acknowledge receipt of any addenda by indicating same in their proposal submission. Each respondent acknowledging receipt of any addenda is responsible for the contents of the addenda and any changes to the proposal therein. Failure to acknowledge any addenda may cause the proposal to be rejected. Addenda information is available over the internet at City of Evanston Notices & Documents or [www.demandstar.com](http://www.demandstar.com), or by contacting the Purchasing Office, 847-866-2935.

**D. Disclosures and Potential Conflicts of Interest**

The City of Evanston's Code of Ethics prohibits public officials or employees from performing or participating in an official act or action with regard to a transaction in which he has or knows he will thereafter acquire an interest for profit, without full public disclosure of such interest. This disclosure requirement extends to the spouse, children and grandchildren, and their spouses, parents and the parents of a spouse, and brothers and sisters and their spouses.

To ensure full and fair consideration of all proposals, the City of Evanston requires all Proposers including owners or employees to investigate whether a potential or actual conflict of interest exists between the Proposer and the City of Evanston, its officials, and/or employees. If the Proposer discovers a potential or actual conflict of interest, the Proposer must disclose the conflict of interest in its proposal, identifying the name of the City of Evanston official or employee with whom the conflict may exist, the nature of the conflict of interest, and any other relevant information. The existence of a potential or actual conflict of interest does NOT, on its own, disqualify the disclosing Proposer from consideration. Information provided by Proposers in this regard will allow the City of Evanston to take appropriate measures to ensure the fairness of the proposal process.

The City requires all Proposers to submit a certification, enclosed with this RFP, that the Proposer has conducted the appropriate investigation and disclosed all potential or actual conflicts of interest.

**E. Protests**

Any actual or prospective Proposer, who is aggrieved in connection with the solicitation or award of a contract, may protest to the Purchasing Office. The protest shall be submitted in writing within ten (10) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

- The Proposer shall submit any protests or claims regarding this solicitation to the Purchasing Office.
- A pre-bid protest must be filed five (5) days before the bid opening or proposal submittal.



- A pre-award protest must be filed no later than ten (10) days after the bid opening date or proposal deadline.
- A post-award protest must be filed no later than ten (10) days after the award of the Contract.

All claims by a Proposer against the City relating to a contract shall be submitted in writing to the Purchasing Specialist. The City will only consider protests that are properly and timely submitted.

All protests or claims must set forth the name and address of the protester, the contract number, the grounds for the protest or claim, and the course of action that the protesting party desires the Purchasing Specialist to take. Statements shall be sworn and submitted under penalty of perjury.

#### **F. Authority To Resolve Protests And Contract Claims**

*Protests:* The Purchasing Specialist shall have the authority to consider and resolve a protest of an aggrieved Proposer, actual or prospective, concerning the solicitation or award of a contract. The City shall issue a written decision and that decision is final.

Each Proposer, by submitting a response to this RFP, expressly recognizes the limitations on its rights to protest provided in this Section and expressly waives all other rights and remedies and agrees that the decision on the protest is final and conclusive. If a Proposer disregards, disputes or does not follow the exclusive protest remedies provided in this Section, it shall indemnify and hold the City and its officers, employees, agents and consultants harmless from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of such Proposer's actions. Each Proposer, by submitting a response to this RFP, shall be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.

#### **G. Litigation**

For purposes of this Section, the following terms are defined as follows:

An "issue" means any prior or pending litigation or investigation, either civil or criminal, or any governmental agency action or proceeding (the "issue"), which may affect the performance of the services to be rendered herein. For purposes of this Section, an "issue" shall also include any criminal, civil, or administrative penalty or finding imposed against any covered individual. An issue occurring within seven (7) years of the date preceding the date of the Proposer's response shall be disclosed by the Proposer.

A "covered individual" means any principal, president, managing partner, or vice-president, affiliated in any way with the Proposer, and the Proposer's employees or subcontractors.

All proposers shall identify and describe with particularity any issue. The City, and not Proposer, has the sole discretion to determine whether an issue may affect the performance of the services. Failure of any Proposer to comply with this mandatory obligation shall, at the City's sole discretion, result in the Proposer's response being deemed non-responsive and not responsible. Failure of any Proposer to comply with the obligation specified herein may result in the voiding any subsequent contract award to Proposer if the City discovers upon the exercise of its customary due diligence that Proposer failed to comply with the mandatory obligation in this Section. The City reserves all rights to take any other actions in the case of a Proposer's non-compliance with this Section.

**H. Sub-contractors**

If any proposer submitting a proposal intends on sub-contracting out all or any portion of the engagement, that fact, and the name of the proposed sub-contracting proposer(s) must be clearly disclosed in the proposal. Following the award of the contract, no additional sub-contracting will be allowed without the prior written consent of the City of Evanston.

**I. Contact with City Personnel**

All Proposers are prohibited from making any contact with the City Manager, City Council, or any other official or employee of the City with regard to the Project, other than in the manner and to the person(s) designated herein. The Purchasing Specialist reserves the right to disqualify any Proposer found to have contacted City Personnel in any manner with regard to the Project. Additionally, if it is determined that the contact with City Personnel was in violation of any provision of 720 ILCS 5/33EE, the matter may be referred to the Cook County State's Attorney for review and prosecution.

**J. Costs Incurred**

The City of Evanston assumes no responsibility or liability for costs incurred by the Proposer prior to the execution of a contract. This includes costs incurred by the Proposer as a result of preparing a response to this RFP.

**Exhibit A**  
**DISCLOSURE OF OWNERSHIP INTERESTS**

The City of Evanston Code Section 1-18-1 et seq. requires all persons (APPLICANT) seeking to do business with the City to provide the following information with their proposal. Every question must be answered. If the question is not applicable, answer with "NA".

APPLICANT NAME: \_\_\_\_\_

APPLICANT ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

APPLICANT is (**Check One**)

- Corporation
- Partnership
- Sole Owner
- Association

Other ( ) \_\_\_\_\_

Please answer the following questions on a separate attached sheet if necessary.

**SECTION I CORPORATION**

1a. Names and addresses of all Officers and Directors of Corporation.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1b. **(Answer only if the corporation has 33 or more shareholders.)**

Names and addresses of all those shareholders owning shares equal to or in excess of 3% of the proportionate ownership interest and the percentage of shareholder interest. (Note: Corporations which submit S.E.C. form 10K may substitute that statement for the material required herein.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1c. **(Answer only if the corporation has fewer than 33 shareholders.)**  
Names and addresses of all shareholders and percentage of interest of each herein. (Note: Corporations which submit S.E.C. form 10K may substitute that statement for the material requested herein.)

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**SECTION 2 PARTNERSHIP/ASSOCIATION/JOINT VENTURE**

2a. The name, address, and percentage of interest of each partner whose interests therein, whether limited or general, is equal to or in excess of 3%.

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2b. Associations: The name and address of all officers, directors, and other members with 3% or greater interest.

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**SECTION 3 TRUSTS**

3a. Trust number and institution.

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3b. Name and address of trustee or estate administrator.

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3c. Trust or estate beneficiaries: Name, address, and percentage of interest in total entity.

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**SECTION 4 ALL APPLICANTS ADDITIONAL DISCLOSURE**

4a. Specify which, if any, interests disclosed in Section 1, 2, or 3 are being held by an agent or nominee, and give the name and address of principal.

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4b. If any interest named in Section 1,2, or 3 is being held by a "holding" corporation or other "holding" entity not an individual, state the names and addresses of all parties holding more than a 3% interest in that "holding" corporation or entity as required in 1(a), 1(b), 1(c), 2(a), and 2(b).

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4c. If "constructive control" of any interest named in Sections 1,2, 3, or 4 is held by another party, give name and address of party with constructive control. ("Constructive control" refers to control established through voting trusts, proxies, or special terms of venture of partnership agreements.)

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I have not withheld disclosure of any interest known to me. Information provided is accurate and current.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Person Preparing Statement

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_  
Notary Public

(Notary Seal)

Commission Expires: \_\_\_\_\_

*Failure to complete and return this form may be considered sufficient reason for rejection of the bid.*

**EXHIBIT B**

**ADDITIONAL INFORMATION SHEET**

Proposal Name: \_\_\_\_\_

Proposal Number #: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone/FAX: # \_\_\_\_\_

E-mail: \_\_\_\_\_

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Exhibit C**

**CONFLICT OF INTEREST FORM**

\_\_\_\_\_, hereby certifies that it has conducted an investigation into whether an actual or potential conflict of interest exists between the bidder, its owners and employees and any official or employee of the City of Evanston.

Proposer further certifies that it has disclosed any such actual or potential conflict of interest and acknowledges if bidder/Proposer has not disclosed any actual or potential conflict of interest, the City of Evanston may disqualify the bid/proposal.

\_\_\_\_\_  
(Name of Bidder/Proposer if the Bidder/Proposer is an Individual)  
(Name of Partner if the Bidder/Proposer is a Partnership)  
(Name of Officer if the Bidder/Proposer is a Corporation)

The above statements must be subscribed and sworn to before a notary public.  
Subscribed and Sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

*Failure to complete and return this form may be considered sufficient reason for rejection of the bid / proposal.*



**Exhibit D**

**ACKNOWLEDGEMENT OF UNDERSTANDING**

**THE SECTION BELOW MUST BE COMPLETED IN FULL AND SIGNED**

The undersigned hereby certifies that they have read and understand the contents of this solicitation and attached service agreements, and agree to furnish at the prices shown any or all of the items above, subject to all instructions, conditions, specifications and attachments hereto. Failure to have read all the provisions of this solicitation shall not be cause to alter any resulting contract or to accept any request for additional compensation. By signing this document, the Proposer hereby certifies that they are not barred from bidding on this contract as a result of bid rigging or bid rotating or any similar offense (720 ILCS S/33E-3, 33E-4).

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<b>Authorized Signature:</b>	_____	<b>Company Name:</b>	_____
<b>Typed/Printed Name:</b>	_____	<b>Date:</b>	_____
<b>Title:</b>	_____	<b>Telephone Number:</b>	_____
<b>Email:</b>	_____	<b>Fax Number:</b>	_____

**Exhibit E**

**ANTI-COLLUSION AFFIDAVIT AND PROPOSER'S CERTIFICATION**

\_\_\_\_\_, being first duly sworn,  
deposes and says that he is \_\_\_\_\_  
(Partner, Officer, Owner, Etc.)  
of \_\_\_\_\_  
(Proposer)

The party making the foregoing proposal or bid, that such bid is genuine and not collusive, or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person; to fix the bid price element of said bid, or of that of any other bidder, or to secure any advantage against any other bidder or any person interested in the proposed contract.

The undersigned certifies that he is not barred from bidding on this contract as a result of a conviction for the violation of State laws prohibiting bid-rigging or bid-rotating.

\_\_\_\_\_  
(Name of Bidder if the Bidder is an Individual)  
(Name of Partner if the Bidder is a Partnership)  
(Name of Officer if the Bidder is a Corporation)

The above statements must be subscribed a sworn to before a notary public.

Subscribed and Sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

Commission Expires: \_\_\_\_\_

*Failure to complete and return this form may be considered sufficient reason for rejection of the bid.*

**EXHIBIT F**  
**CITY OF EVANSTON M/W/D/EBE POLICY**

A City of Evanston goal is to provide contracting and subcontracting opportunities to Minority Business Enterprises, Women Business Enterprises, Disadvantaged and Evanston Business Enterprises. The goal of the Minority, Women, Disadvantaged and Evanston Business Enterprise Program (M/W/D/EBE) is to assist such businesses with opportunities to grow. To assist such growth, the City's goal is to have general contractors utilize M/W/D/EBEs to perform no less than 25% of the awarded contract.

Proposers bidding on projects with the City must work to meet the 25% goal or request a waiver from participation. It is advised that bidders place advertisements requesting sub-contractors and that they email or contact individual proposers that would be appropriate to partner in response to the project. For samples of possible advertisements, see the City of Evanston's Business Diversity Section <http://www.cityofevanston.org/business/business-diversity/> ([Sample Advertisement](#)). If you request a paper copy of the additional documents, it will be available free of charge from the Purchasing Office, 2100 Ridge Road Suite 4200, Evanston, IL 60201.

If a bidder is unable to meet the required M/W/D/EBE goal, the Bidder must seek a waiver or modification of the goal on the attached forms. Bidder must include:

1. A narrative describing the Bidder's efforts to secure M/W/D/EBE participation prior to the bid opening.
2. Documentation of each of the assist agencies that were contacted, the date and individual who was contacted, and the result of the conversation (see form)
3. A letter attesting to instances where the bidder has not received inquiries/proposals from qualified M/W/D/EBEs
4. Names of owners, addresses, telephone numbers, date and time and method of contact of qualified M/W/D/EBE who submitted a proposal but was not found acceptable.
5. Names of owners, addresses, telephone numbers, date and time of contact of at least 15 qualified M/W/D/EBEs the bidder solicited for proposals for work directly related to the Bid prior to the bid opening (copies must be attached).

If a bidder is selected with a Sub-contractor listed to meet the M/W/D/EBE goal, a "monthly utilization report" will be due to the City prior to each payment being issued to the Contractor. This report will include documentation of the name of the proposer hired, the type of work that proposer performed, etc. Should the M/W/D/EBE not be paid according to the schedule proposed in this document, the City reserves the right to cancel the contract. Examples of this monthly form can be found on the City's website: <http://www.cityofevanston.org/business/business-diversity/> ([MWDEBE Monthly Utilization Report](#)).

**EXHIBIT G**

**M/W/D/EBE PARTICIPATION COMPLIANCE FORM**

I do hereby certify that \_\_\_\_\_  
(Name of proposer) intends to participate as a Subcontractor or General Contractor on the project referenced above.

This proposer is a (check only one):

\_\_\_\_\_ Minority Business Enterprise (MBE), a proposer that is at least 51% managed and controlled by a minority, certified by a certifying agency within Illinois.

\_\_\_\_\_ Women's Business Enterprise (WBE), a proposer that is at least 51% managed and controlled by a woman, certified by a certifying agency within Illinois.

\_\_\_\_\_ Disadvantaged Business Enterprise (DBE), a proposer that is at least 51% managed and controlled by a disadvantaged, certified by a certifying agency within Illinois.

\_\_\_\_\_ Evanston Based Enterprise (EBE), a proposer located in Evanston for a minimum of one year and which performs a "commercially useful function".

Total proposed price of response \$ \_\_\_\_\_

Amount to be performed by a M/W/D/EBE \$ \_\_\_\_\_

Percentage of work to be performed by a M/W/D/EBE \_\_\_\_\_ %

Information on the M/W/D/EBE Utilized:

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Signature of proposer attesting to participation \_\_\_\_\_

Title and Date \_\_\_\_\_

Type of work to be performed \_\_\_\_\_

Please attach:

1. Proper certification documentation if applying as a M/W/DBE and check the appropriate box below. This M/W/DBE will be applying with documentation from:

- Cook County                       State Certification
- Federal Certification             Women's Business Enterprise National Council
- City of Chicago                     Chicago Minority Supplier Development Council

2. Attach business license if applying as an EBE

**EXHIBIT G**

**M/W/D/EBE UTILIZATION SUMMARY REPORT**

The following Schedule accurately reflects the value of each MBE/WBE/DBE/EBE sub-agreement, the amounts of money paid to each to date, and this Pay Request. The total proposed price of response submitted is \_\_\_\_\_.

<b>MBE/WBE/DBE/ EBE FIRM NAME</b>	<b>FIRM TYPE (MBE/WBE /DBE/EBE)</b>	<b>SERVICES PERFORMED</b>	<b>AMOUNT OF SUB- CONTRACT</b>	<b>PERCENT OF TOTAL CONTRACT AMOUNT</b>
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
<b>TOTAL</b>			\$	

**Exhibit H**

**M/W/D/EBE PARTICIPATION WAIVER REQUEST**

I am \_\_\_\_\_ of \_\_\_\_\_, and I have authority to  
(Title) (Name of Proposer)

execute this certification on behalf of the proposer. I \_\_\_\_\_ do  
(Name)

hereby certify that this proposer seeks to waive all or part of this M/W/D/EBE participation goal

for the following reason(s):

**(CHECK ALL THAT APPLY. SPECIFIC SUPPORTING DOCUMENTATION MUST BE ATTACHED.)**

- \_\_\_\_\_ 1. No M/W/D/EBEs responded to our invitation to bid.
- \_\_\_\_\_ 2. An insufficient number of proposers responded to our invitation to bid.  
**For #1 & 2, please provide a narrative describing the outreach efforts from your proposer and proof of contacting at least 15 qualified M/W/D/EBEs prior to the bid opening. Also, please attach the accompanying form with notes regarding contacting the Assist Agencies.**
- \_\_\_\_\_ 3. No subcontracting opportunities exist.  
**Please provide a written explanation of why subcontracting is not feasible.**
- \_\_\_\_\_ 4. M/W/D/EBE participation is impracticable.  
**Please provide a written explanation of why M/W/D/EBE participation is impracticable.**

Therefore, we request to waive \_\_\_\_\_ of the 25% utilization goal for a revised goal of \_\_\_\_\_%.

Signature: \_\_\_\_\_  
(Signature)

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

**EXHIBIT I**

**M/W/D/EBE Assistance Organizations (“Assist Agencies”) Form**

AGENCY	DATE CONTACTED	CONTACT PERSON	RESULT OF CONVERSATION
<b>Association of Asian Construction Enterprises (AACE)</b> 5500 Touhy Ave., Unit K Skokie, IL. 60077 Phone: 847-525-9693 Perry Nakachii, President			
<b>Black Contractors United (BCU)</b> 400 W. 76th Street Chicago, IL 60620 Phone: 773-483-4000; Fax: 773-483-4150 Email: <a href="mailto:bcunewera@ameritech.net">bcunewera@ameritech.net</a>			
<b>Chicago Minority Business Development Council</b> 105 West Adams Street Chicago, Illinois 60603 Phone: 312-755-8880; Fax: 312-755-8890 Email: <a href="mailto:info@chicagomsdc.org">info@chicagomsdc.org</a> Shelia Hill, President			
<b>Evanston Minority Business Consortium, Inc.</b> P.O. Box 5683 Evanston, Illinois 60204 Phone: 847-492-0177 Email: <a href="mailto:embcinc@aol.com">embcinc@aol.com</a>			
<b>Federation of Women Contractors</b> 5650 S. Archer Avenue Chicago, Illinois 60638 Phone: 312-360-1122; Fax: 312-360-0239 Email: <a href="mailto:FWCChicago@aol.com">FWCChicago@aol.com</a> Contact Person: Beth Doria Maureen Jung, President			
<b>Hispanic American Construction Industry (HACIA)</b> 901 W. Jackson, Suite 205 Chicago, IL 60607 Phone: 312-666-5910; Fax: 312-666-5692 Email: <a href="mailto:info@haciaworks.org">info@haciaworks.org</a>			
<b>Women’s Business Development Ctr.</b> 8 S. Michigan Ave, Suite 400 Chicago, Illinois 60603 Phone: 312-853-3477 X220; Fax: 312-853-0145 Email: <a href="mailto:wbdc@wbdc.org">wbdc@wbdc.org</a> Carol Dougal, Director			

**PLEASE NOTE:** Use of M/W/D/EBE Assistance Organizations (“Assist Agencies”) Form and agencies are for use as a resource only. The agencies and or vendors listed are not referrals or recommendations by the City of Evanston.

**Exhibit J**

**Professional Services Agreement Acknowledgement Page**

The City has attached its standard professional services agreement as an exhibit to this RFP. Identify all exceptions to the agreement that would prevent your firm from executing it. **The City shall not consider or negotiate regarding exceptions submitted at any time after the submission of the Proposer's response.** *Please check one of the following statements:*

\_\_\_ I have read the professional services agreement and plan on executing the agreement without any exceptions.

\_\_\_ My firm cannot execute the City's standard professional service agreement unless the exceptions noted below or in the attached sample professional services agreement are made.

**\*\*\*Please be aware that submitting exceptions to the contract may impact the likelihood of your firm being selected to perform this work.**

List exceptions in the area below:

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**Authorized  
Signature:** \_\_\_\_\_

**Company  
Name:** \_\_\_\_\_

**Typed/Printed  
Name and Title:** \_\_\_\_\_

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



**Exhibit J**

**Consultant Certification and Verification**

I certify that the agents, employees and subcontractors of [CONSULTANT FIRM] are in compliance and will comply with City work rules and policies applicable to City employees while they are on City property, including the City's Workplace Harassment Policy; COVID-19 Vaccination Policy; and Sexual Harassment Policy. I further certify that the agents, employees and subcontractors of [CONSULTANT FIRM] are in compliance with OSHA emergency temporary standard to protect workers from coronavirus.

***CONSULTANT:***

*By* \_\_\_\_\_

*Its:* \_\_\_\_\_

*FEIN Number:* \_\_\_\_\_

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

## ATTACHMENT A.1 Master Project Summary

	Site Name
Site Identifier	
Street Address	1801 Main St.
City	Evanston
State	IL
Zip	60202
Utility	ComEd
Utility Rate	Large
Site PLC	
Calendar 2022-2023 Usage (kWh)	4,235,446.00
Recommended PV System Size (kW DC)	<1MW
Anticipated Year 1 Offsets	

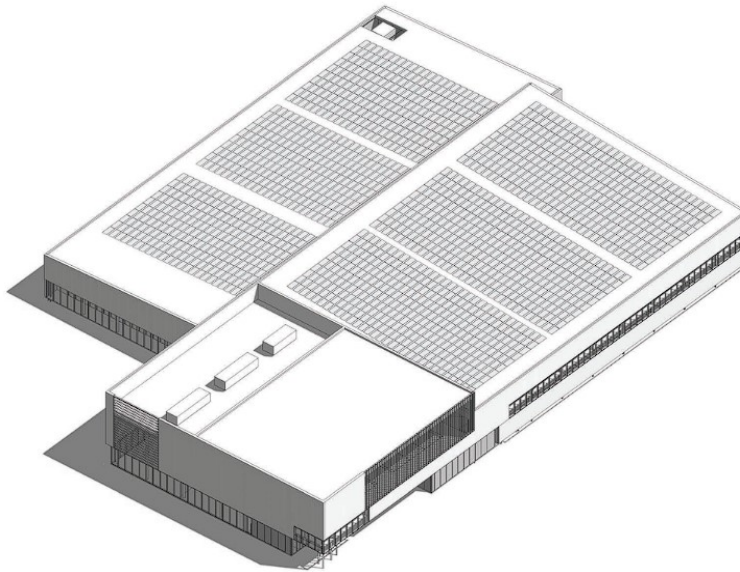
## ATTACHMENT A.2 Site Technical Overview Documents







# ROOFTOP SOLAR



550 kW = 1050 kWh/kW yr  
577,500 kWh/yr

Estimated Building Energy Use  
67 kWh/sf \* 130,000sf  
8,710,000 kWh/yr

Solar Capacity  
**6.6%**

5% = 2 LEED points  
10% = 3 LEED points

ROBERT CROWN COMMUNITY CENTER  
ICE COMPLEX AND LIBRARY

## ATTACHMENT A.3 Site Historical Electricity Usage

Meter: 230346348; 230345209 (fire pump)

Property: Robert Crown Community Center 1801 Main St, Evanston, IL 60202		
Start Date	End Date	Usage kWh (thousand Watt-hours)
1/1/2022	1/31/2022	265,719.00
2/1/2022	2/28/2022	272,125.00
3/1/2022	3/31/2022	284,667.00
4/1/2022	4/30/2022	282,430.00

<b>Property:</b> Robert Crown Community Center 1801 Main St, Evanston, IL 60202		
5/1/2022	5/31/2022	335,254.00
6/1/2022	6/30/2022	375,577.00
7/1/2022	7/31/2022	419,548.00
8/1/2022	8/31/2022	393,424.00
9/1/2022	9/30/2022	394,308.00
10/1/2022	10/31/2022	312,468.00
11/1/2022	11/30/2022	316,156.00
12/1/2022	12/31/2022	277,560.00
1/1/2023	1/31/2023	249,548.00

#### **ATTACHMENT A.4 Solar PV System Design Specifications**

### **SOLAR PV SYSTEM DESIGN SPECIFICATIONS**

#### **1. SITE ACCESS**

Each selected proposer (“Proposer”) will be required to comply with all applicable State and local laws, rules and regulations applicable to the construction of the Systems at the site. Prospective bidders are cautioned that the site encompasses diverse uses including secured and limited access sites and Proposer will be required to coordinate the construction activities at the site with the City so as to avoid disrupting the City’s use of the site. Proposer shall be responsible for providing portable toilets and storage facilities for all workers on-site, and shall be responsible for procuring, installing, securing, and removing temporary security fencing and scaffolding.

#### **2. PROJECT MANAGEMENT**



### **2.1 Project Manager**

Proposer shall assign a project manager (“Project Manager”) from its proposer upon execution of a power purchase agreement (“PPA”) with the City for the Project (the “Project”). The Project Manager shall ensure that all contract, schedule, and reporting requirements of the Project are met and shall be the primary point of day-to-day contact for the City.

### **2.2 Solar Incentives**

Unless the City directs otherwise, Proposer shall be responsible for the submission of any applications for available energy production incentives associated with the Project and shall be responsible for providing updated documentation to incentive program administrators throughout the Project, as required by rules of the relevant incentive program.

### **2.3 Interconnection**

Proposer shall be responsible for assembling the applications for all necessary interconnection agreements with the Commonwealth Edison Company (“ComEd”) for the Project and shall pay any application fees imposed by ComEd. Proposer shall be responsible for any fees, costs and expenses relating to normal and customary utility interconnection studies that may be required in connection with such agreements.

All utility work required in connection with an interconnection agreement that is on the site side of the ComEd meter shall be at the sole cost and expense of the Proposer. Utility work required in connection with an interconnection agreement that is beyond ComEd’s meter shall be at the sole cost and expense of the Proposer.

Systems installed as part of this Project will take advantage of Net Energy Metering (NEM), unless specified otherwise by City or its agents. Proposer shall be responsible for ensuring the system design and interconnection qualifies for NEM, as applicable.

## **3. SYSTEM DESIGN**

### **3.1 Design Review Process**

Proposer is responsible for providing designs for each site within the Project to the City for its review and approval in accordance with the terms and conditions of the PPA. Costs for engineering reviews and approvals associated with such designs shall be borne by the Proposer. System designs must take into account City’s aesthetic issues and shall not conflict with any current City operations at the applicable site. The schedule for the Project established pursuant to the PPA shall include adequate time for City review and approval of such submittals.

### **3.2 Shading**

Proposer shall avoid excessive shading on modules to the extent possible. Where shading losses are encountered, Proposer shall perform a shading analysis justifying the basis for their design, including any proposed tree removal, and explaining why shading does not create an adverse performance and/or economic impact.

### **3.3 Proposer Licensing**

Proposer shall comply with all applicable licensing requirements for the work to construct and install the Project.

### **3.4 Production Modeling**

Production modeling of the PV systems in the Project shall be performed in accordance with the instructions provided in the RFP.

### **3.5 Permits And Approvals**

Proposer, at its sole cost and expense, shall obtain all permits and approvals required by applicable law for the Project from the City and agencies of the State of Illinois, the County, and municipalities when applicable including, without limitation, any permits for road closures. City of Evanston permit fees shall be waived.

### **3.6 Technical Requirements**

All components of the Project and their installation and subsequent operation shall comply with all applicable industry codes and standards and all applicable laws. The Proposer shall demonstrate to the City's reasonable satisfaction that at the site the existing structures will not be compromised or adversely impacted by the installation and/or operation of the System Proposer has proposed to install. A structural engineer with an Illinois license will be required to officially approve installation drawings, including proposed penetrations. The City will also need to approve the appearance of the panel layout and appurtenances. In addition, a Proposer's proposed systems shall comply with the following requirements.

- A. PV Modules.** The PV modules proposed by Proposer shall comply with at least the following:
  - IEEE 1262 "Recommended Practice for Qualifications of Photovoltaic Modules".
  - System modules shall be UL1703 listed and CEC listed.
  - Modules shall be new, undamaged, fully warranted without defect.
  - If PV modules using hazardous materials are to be provided, then the environmental impact of the hazardous material usage must be disclosed, including any special maintenance requirements and proper disposal/recycling of the modules at the end of their useful life.
  
- B. Inverters.** The inverters proposed by Proposer shall comply with at least the following:

- Inverters shall be suitable for grid interconnection and shall be compliant with all interconnection requirements.
- IEEE 929-2000 – “Recommended Practice for Utility Interface of Photovoltaic Systems”.
- Inverters shall be UL 1741 and IEEE 1547 compliant.
- Inverters shall be CEC-listed with an efficiency of 95.5% or higher.
- Inverters must automatically reset and resume normal operation after a power limiting operation.
- Inverters shall be sized to provide maximum power point tracking for voltage and current range expected from PV array for temperatures and solar insolation conditions expected for Project conditions.
- Enclosures shall be rated NEMA 3R when the inverter is located outdoors. For outdoor installations in corrosive environments, NEMA 4X series 300 stainless steel enclosures must be used.
- Inverter selection shall take into account anticipated noise levels produced and minimize interference with City activities.

**C. *Electrical Balance of System Components.***

- Each proposed PV system shall include, at a minimum, one fused DC disconnect and one fused AC disconnect for safety and maintenance concerns.
- String combiner boxes shall be load-break, disconnecting types, such that opening the combiner boxes shall break the circuit between combiner box feeders and inverters.
- Proposer shall utilize lightning arrestors to protect appropriate equipment from lightning strikes.
- Proposer shall utilize surge suppressors to protect the appropriate equipment from electrical surges.
- All wiring materials and methods must adhere to industry-standard best practices, and all inter-module connections must require the use of a specialized tool for disconnecting.

**D. *Mounting Systems and Penetrations.*** The mounting systems shall be designed and installed such that the PV modules may be fixed or tracking with reliable components proven in similar projects, and shall be designed to resist dead load, live load, corrosion, UV degradation, wind loads, and seismic loads appropriate to the geographic area and in accordance with governing codes over the expected term of the PPA. Mounting systems must also meet the following requirements at a minimum:

- All sloped roof systems should be seam-affixed with no structural penetrations (S-5!, or approved equal)
- All flat roof systems should be ballasted and have no structural penetrations.



- All structural components, including array structures, shall be designed in a manner commensurate with attaining a minimum 20-year design life. Particular attention shall be given to the prevention of corrosion at the connections between dissimilar metals.
- Thermal loads caused by fluctuations of component and ambient temperatures shall be accounted for in the design and selection of mounting systems such that neither the mounting system nor the surface on which it is mounted shall degrade or be damaged over time.
- Each PV module mounting system must be certified by the module manufacturer as (1) an acceptable mounting system that shall not void the module warranty, and (2) that it conforms to the module manufacturer's mounting parameters.
- For unframed modules, bolted and similar connections shall be non-corrosive and include locking devices designed to prevent twisting over the 25-year design life of the PV system.
- Proposer shall utilize tamper-resistant PV module to rack fasteners for all PV module mounting.
- Final coating and paint colors shall be reviewed and approved by the City during Design Review.
- Any attachment to and penetrations of the roof system should be minimal and details of these should be approved by the City prior to installation.
- Painting or other coatings must not interfere with the grounding and bonding of the array.

**E. *Corrosion Control.*** The corrosion control proposed by Proposer must comply with the following requirements:

- Fasteners and hardware throughout the System shall be stainless steel or material of equivalent corrosion resistance
- Racking components shall be anodized aluminum, hot-dipped galvanized steel, or material of equivalent corrosion resistance
- Unprotected steel not to be used in any components
- Each System and associated components must be designed and selected to withstand the environmental conditions of the site (e.g., temperatures, winds, rain, flooding, etc.) to which they will be exposed.

**F. *Roofing Requirements.*** The installation of PV modules, inverters and other equipment shall provide adequate room for access and maintenance of existing equipment on building roofs. Unless applicable law requires or the County mandates a greater distance, (i) a minimum of three (3) feet of clearance will be provided between PV equipment and existing mechanical equipment and other equipment mounted on the roof; and (ii) a minimum of four (4) feet of clearance shall be provided between PV equipment and the edge of the roof. The PV equipment shall not be installed in a way

that obstructs air flow into or out of existing building systems or equipment. Proposed roof top mounted systems may be ballasted, standing seam attachment, or penetrating systems and must meet or exceed the following requirements:

- The System shall not exceed the ability of the existing structure to support the entire solar system and withstand increased wind uplift and seismic loads. The capability of the existing structure to support proposed solar systems shall be verified by Proposer prior to design approval, from a structural engineer licensed in Illinois with stamped and signed calculations and drawings.
- Roof penetrations, if part of the mounting solution, shall be kept to a minimum and must be approved in writing by the City and the roofing manufacturer.
- Proposer shall perform all work so that any existing roof warranties shall not be voided, reduced, or otherwise negatively impacted.
- No work shall compromise roof drainage, cause damming or standing water or cause excessive soil build-up.
- All materials and/or sealants must be chemically compatible.
- All penetrations shall be waterproofed.
- Detail(s) for the sealing of any roof penetrations shall be approved in writing by the City, as well as the manufacturer of the existing roofing systems, as part of system design review and approval – prior to Proposer proceeding with work. The City will work with the Proposer to identify those roofs within the Project for which a warranty is known to still be in effect.
- Any damage to roofing material during installation of solar systems must be remedied by Proposer.

**G. Ancillary Equipment Enclosures.** The following elements will be incorporated into the design and construction of the System unless waived at the City's sole discretion:

- All ancillary equipment be grouped to a single location per site and shall be surrounded by a fence to prevent access by unauthorized personnel. The fence shall be a six (6) foot high fence with aesthetically pleasing screen walls that compliment the existing facades.
- Location: all ancillary equipment shall be located in a manner that minimizes its impact to normal City operations and minimizes the visual impacts to the site.

**H. Placards and Signage.**

- Placards and signs shall correspond with requirements in the National Electric Code and the applicable interconnection agreement in terms of appearance, wording, and placement.
- Permanent labels shall be affixed to all electrical enclosures, with nomenclature matching that found in As-Built Electrical Documents.
- The City reserves the right to share and post educational information regarding the System such as signs and posters.

**J. *Wiring and Cabling Runs.***

- Proposer shall install all AC conductors in conduit.
- Direct burial wire will not be acceptable. Conduit buried underground shall be suitable for the application and compliant with all applicable codes. A tracing/caution tape must be installed in the trench over all buried conduit.
- Conduit installed using horizontal directional boring (HDB), shall include tracer tape or traceable conduit. Unless applicable law is more stringent, the minimum depth of the conduit shall be per NEC 2011 Article 300.5. The Proposer must provide documentation to the City of final depth and routes of all conduit installed in horizontal bores.
- Conduit installed on building roofs shall not be installed near roof edges or parapets to reduce visibility. Any conduit penetrations through roof surfaces shall not be made within five (5) feet of the roof edge to reduce visibility. Conduit shall not be installed on the exterior face of any building. In all cases, the visible impact of conduit runs shall be minimized and the design and placement of conduit shall be reviewed and approved by the City as part of Design Review.
- All spare conduits shall be cleaned, mandrelled, and provided with a pull wire. Spare conduits shall be required for security cameras for ground mount systems.
- All exposed conduit runs over 100-feet in length or passing over building connection points shall have expansion joints to allow for thermal expansion and building shift.
- Proposer shall install and secure the exposed string cable home runs along the beams or structure where the combiner box is installed.
- All exposed string wiring must be installed above the lower surface of the structural purlins and beams. Wire loops under framing members are not acceptable.
- Acceptable wire loss in DC circuits is < 1.5% and acceptable wire loss in AC circuits is < 1.5% as well.
- All cable terminations, excluding module-to-module and module-to-cable harness connections, shall be permanently labeled.
- All electrical connections and terminations shall be torqued according to manufacturer specifications and marked/sealed at appropriate torque point.

**K. *Grounding and Bonding.***

- Module ground wiring splices shall be made with irreversible crimp connectors.
- All exposed ground wiring must be routed above the lower surface of any structural framing.

- For shade structure installations, grounding electrode conductors shall be bonded to structure columns either just below grade or below the top surface of concrete bollards.

**M. Monitoring System, DAS, and Reporting.** Proposer shall design, build, activate and ensure proper functioning of Data Acquisition Systems (DAS) that enable the City to track the performance of the PV Systems as well as environmental conditions through an online web-enabled graphical user interface and information displays. Proposer shall provide equipment to connect the DAS via existing Wi-Fi network or cellular data network at all locations. The means of data connection will be determined during design. The City will pay for the cost of cellular data service if needed, but not for the modem or other equipment needed to connect to the cellular network. The DAS(s) shall provide access to at least the following data:

- Instantaneous AC system output (kW)
- PV System production (kWh) over predefined intervals that may be user configured
- In-plane irradiance
- Ambient and cell temperature
- Inverter status flags and general system status information
- System availability
- Site Load information. Available load data for the meter the system is connected to shall be collected by the solar monitoring solution as part of the DAS.

Environmental data (temperatures and irradiance) shall be collected via an individual weather station installed for each site.

Data collected by the DAS shall be presented in an online web interface, accessible from any computer through the Internet with appropriate security (e.g., password controlled access). The user interface shall allow visualization of the data at least in the following increments: 15 minutes, hour, day, week, month, and year. The interface shall access data recorded in a server that may be stored on-site or remotely with unfettered access by the City for the life of the Project. The online interface shall enable users to export all available data in Excel or ASCII comma-separated format for further analysis and data shall be downloadable in at least 15 minute intervals for daily, weekly, monthly and annual production.

Additionally, Proposer shall make available to the City, at no additional cost, the following reports:

- Monthly Production report shall be available online to the City personnel.
- System performance data shall be made available electronically to the City in a format and at a frequency to be determined during the Design Review process.

- Additional reports shall be made available to the City to assist the City in reconciling system output with utility bills and any production guarantee under the PPA.

A monitoring manual shall be provided to the City in printed or on-line form that describes how to use the monitoring system, including the export of data and the creation of custom reports. If requested by the City, Proposer shall train the building operations staff on the procedures to shut down a System in the case of an emergency or for safety reasons.

Lastly, the Proposer shall provide options for education regarding clean energy generation and greenhouse gas emissions reductions of the project. The educational aspect would ideally integrate with existing displays at the site and relevant portions of the city website.

### **3.7 Warranties**

All work performed by Proposer must not render void, violate, or otherwise jeopardize any preexisting City facility or building warranties or the warranties of system components installed therein.

## **4. PROCUREMENT/CONSTRUCTION**

### **4.1 Tree Removal**

Any trees that are in the footprint of systems to be installed by the Proposer shall be removed by the Proposer at its expense, subject to the approval of the City. A tree shall be considered to be in the footprint of a system if its canopy would extend over any part of the system, including structural components or modules. The City will remove or prune, at its discretion, trees planted outside of the work area that shade PV systems (at present time or in the foreseeable future), provided the Proposer identifies these trees during the design process. The Proposer shall be responsible for any required tree remediation efforts resulting from tree removal that is deemed the Proposer's responsibility.

### **4.2 Line Location**

Proposer will be responsible for locating, identifying and protecting existing underground utilities conduits, piping, substructures, etc. and ensuring that no damage is inflicted upon any such existing infrastructure.

### **4.3 Quality Control**

To ensure safety and quality of the installation, Proposer shall:

- Keep each site clean and orderly throughout the duration of construction. All trash and rubbish shall be disposed of off-site by licensed waste disposal companies and in accordance with all applicable laws.
- Provide all temporary road and warning signs, flagmen or equipment as required to safely execute the work. Street sweeping services shall also be provided as required to keep any dirt, soil, mud, etc. off of roads.
- Comply with all City storm water pollution prevention ordinances.

#### **4.4 Removal and Remediation**

Proposer shall remove all construction spoils, abandoned footings, utilities, construction equipment and other byproducts of construction. All disturbed areas including landscaping, asphalt, and concrete shall be remediated to be in equal or better condition than found. Parking lots shall be re-striped if affected by construction operations.

### **5. REMOVAL OF SYSTEMS**

At the end of the term of the PPA, Proposer shall be required, at its sole cost and expense, to remove the System from the site and restore the site to its original condition.

**ATTACHMENT B.1 Equipment Proposal**

<b>Bidder Name:</b>	<b>Site Name</b>
<b>PV Installation Type</b>	
<b>System Size (kW DC)</b>	
<b>Year 1 Production (kWh)</b>	
<b>Yield (kWh/kW DC)</b>	
<b>Annual Site Usage (kWh)</b>	
<b>Load Offset (%)</b>	
<b>Modules</b>	
<b>Model</b>	
<b>Nameplate (Watts DC)</b>	
<b>Quantity</b>	
<b>Inverters</b>	
<b>Model</b>	
<b>Nameplate (kW)</b>	
<b>Quantity</b>	
<b>Inverters</b>	
<b>Model</b>	
<b>Nameplate (kW)</b>	
<b>Quantity</b>	
<b>Inverters</b>	
<b>Model</b>	
<b>Nameplate (kW)</b>	
<b>Quantity</b>	

**ATTACHMENT B.2**

**Solar Electricity Price Schedule**

Alternative 1: The Solar Electricity Price with respect to each System under the Agreement shall be as follows:

<b>Year of Term</b>	<b>kWh Rate[*] (\$/kWh)</b>	<b>Year of Term</b>	<b>\$/kWh Rate[*] (\$/kWh)</b>
<b>1</b>		<b>11</b>	
<b>2</b>		<b>12</b>	
<b>3</b>		<b>13</b>	
<b>4</b>		<b>14</b>	
<b>5</b>		<b>15</b>	
<b>6</b>		<b>16</b>	
<b>7</b>		<b>17</b>	
<b>8</b>		<b>18</b>	
<b>9</b>		<b>19</b>	
<b>10</b>		<b>20</b>	

Calculated based on Base Contract Price multiplied by \_\_\_\_% inflation factor for each year.

Alternative 2: For any year of this Agreement, the Solar Electricity Price payable by the City is the sum of Sections 1 and 2 below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation). For the period prior to the first anniversary of the Commercial Operation Date, the amount in Section 2 below shall be \$\_\_\_\_\_.

- A. Cost of Electricity, per kWh, pursuant to this Agreement, for the period (a) from the date of the first delivery by System Owner to the City of Electricity from the System (b) to, but excluding, the first anniversary of the Commercial Operation Date: \$\_\_\_\_\_/kWh (“Base Contract Price”).



- B. Annual escalation (expressed as a fixed percentage increase from the prior year’s Solar Electricity Price) applicable as of each anniversary date of the Commercial Operation Date for the following year to, but not including, the next succeeding anniversary of such Commercial Operation Date: [\_\_\_\_\_] percent (\_\_ %).
  - o This escalation factor commences on the first anniversary of the Commercial Operation Date, and ends at the end of the Term, unless further adjusted in accordance with the terms of any Extension Period pursuant to this Agreement.
- C. The Parties further agree to the following:
  - o Although the percentage of escalation is fixed in Section 2, since it is based on the prior year’s Solar Electricity Price, which is itself increasing on an annual basis, the actual dollar amount of each year’s escalation increases.

The Solar Electricity Price may be further escalated for any increase in taxes assessed or levied against the System Assets, which taxes shall be imposed by or on behalf of the City.

**PPA PRICE PROPOSAL (per kWh)**

Bidder:	Site Name	
	Flat Rate	Escalated Rate
	Escalator: 0%	Escalator:
Year 1		
Year 2		
Year 3		
Year 4		
Year 5		
Year 6		
Year 7		
Year 7		
Year 8		
Year 9		
Year 10		
Year 11		
Year 12		
Year 13		
Year 14		
Year 15		
Year 16		
Year 17		
Year 18		
Year 19		
Year 20		

**ATTACHMENT B.3 Production Estimates (kWh/Year) Include Year 1 PVwatts Calculator Output for Each Site**

<b>Bidder:</b>	<b>Site Name</b>	
	<b>Guaranteed</b>	<b>Estimated</b>
	<b>Annual kWh</b>	<b>Annual kWh</b>
<b>Year 1</b>		
<b>Year 2</b>		
<b>Year 3</b>		
<b>Year 4</b>		
<b>Year 5</b>		
<b>Year 6</b>		
<b>Year 7</b>		
<b>Year 7</b>		
<b>Year 8</b>		
<b>Year 9</b>		
<b>Year 10</b>		
<b>Year 11</b>		
<b>Year 12</b>		
<b>Year 13</b>		
<b>Year 14</b>		
<b>Year 15</b>		
<b>Year 16</b>		
<b>Year 17</b>		
<b>Year 18</b>		
<b>Year 19</b>		
<b>Year 20</b>		

**ATTACHMENT C  
EXPERIENCE FORM**

The City reserves the right to verify all information provided in this Experience Form. Proposer (“Prime Proposer”) will be automatically disqualified if all sections are not completed.

**PART I: INFORMATION ABOUT THE PROJECT TEAM**

1. Provide the contact information for the Prime Proposer. Also briefly describe the role of the Prime Proposer.

Prime Entity Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Federal Tax ID: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Year of First Solar Project Completion: \_\_\_\_\_

2. Identify and provide contact information for all other proposers associated with designing, building and/or operating and maintaining the Project (excluding PPA investor and/or other financing proposers if a separate organization) with which your proposer may partner or subcontract. Identify, and if necessary, describe each proposer’s role (e.g., project integrator, system designer, construction management, post construction operations and maintenance, etc.). If needed, please add additional pages.

**Partner Entity Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Federal Tax ID: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Year of First Solar Project Completion: \_\_\_\_\_

**Partner Entity Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Federal Tax ID: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Year of First Solar Project Completion: \_\_\_\_\_

**Partner Entity Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Federal Tax ID: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Year of First Solar Project Completion: \_\_\_\_\_

**Partner Entity Name:** \_\_\_\_\_

Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Federal Tax ID: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Year of First Solar Project Completion: \_\_\_\_\_

**PART II: ESSENTIAL REQUIREMENTS FOR THE PROJECT TEAM**

**NOTE: Prime Proposer will be automatically disqualified if the answer to any of questions 1 - 7 is "No." All questions below MUST be answered. Information provided will be used in the RFP evaluation for qualified proposers.**

1. Has the Prime Proposer provided a list of five (5) project references for which at least one team member from Part I has participated as part of a project team, which totals at least two (2) MW?

Yes                      No

If yes, please provide the following summary and reference information on these projects:

**Project Experience Summary Table**

<b>LOCATION</b>	<b># Projects</b>	<b>kW-DC</b>	<b>Financing Type</b>
<b>TOTAL</b>			

**Project 1**

Location: \_\_\_\_\_

Size (kW-DC): \_\_\_\_\_

Client: \_\_\_\_\_

Client Type (Comm/Gov): \_\_\_\_\_

Project Finance Type: \_\_\_\_\_

Project Contact Name:

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Project Contact Email:

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Project Contact Phone:

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Partner Proposers and Roles:

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## **Project 2**

Location:

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Size (kW-DC):

---

Client:

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Client Type (Comm/Gov):

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Project Finance Type:

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Project Contact Name:

---

Project Contact Email:

---

Project Contact Phone:

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Partner Proposers and Roles:

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## **Project 3**

Location:

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Size (kW-DC):

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Client:

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Client Type (Comm/Gov):

---

Project Finance Type:

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Project Contact Name:

---

Project Contact Email:

---

Project Contact Phone:

---

Partner Proposers and Roles:

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#### **Project 4**

Location:

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Size (kW-DC):

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Client:

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Client Type (Comm/Gov):

---

Project Finance Type:

---

Project Contact Name:

---

Project Contact Email:

---

Project Contact Phone:

---

Partner Proposers and Roles:

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#### **Project 5**

Location:

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Size (kW-DC):

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Client:

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Client Type (Comm/Gov):

---

Project Finance Type:

---

Project Contact Name:

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Project Contact Email:

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Project Contact Phone:

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Partner Proposers and Roles:

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2. Has the client for at least one of the projects listed above been a public sector agency in the Midwest region?

Yes                  No

3. Has the **Prime Proposer**, listed above in Part I, been regularly and continuously engaged in the business of providing solar electric power generation systems for at least five (5) years?

Yes                  No

4. Does the **Prime Proposer**, listed above in Part I, have experience with at least three (3) completed and operational installations of solar energy power generation systems at municipal or public facilities?

Yes                  No

5. Has the **Construction Management Entity**, listed above in Part I (if different from Prime Proposer), completed at least three (3) operational installations of solar energy power generation systems at municipal or public facilities? (If the Construction Management Entity is the Prime Proposer, please answer, *Yes*).



Yes                      No

6. Does the Prime Proposer or one of the entities listed above in Part I hold any active and relevant contractor licenses in \_\_\_\_\_ County?

Yes                      No

If Yes, provide Contractor's \_\_\_\_\_ County Contractors License Number, the name under which license is held, and expiration date:

Name of License Holder:

License Number:

License Type:

Expiration Date of License:

Role of Licensed Holder in Project Team:

7. Does the Post Construction Operations and Maintenance Entity, listed above in Part I, have experience with at least three (3) completed and operational installations of solar energy power generation systems at municipal or public facilities?

Yes                      No

**PART III: FINANCING PARTNERS**

A requirement of the Prime Proposer is the submission of a minimum of one (1) Letter of Interest from PPA financial investor (“Financier”) which has successfully delivered projects. Alternatively, if the proposer “self-finances” and does not use outside financiers, please provide a letter that demonstrates the sufficiency of your self-financing.

NOTE: Proposer will be automatically disqualified if the answer to questions 1 – 3 below is “No.”

- 1. Has the Prime Proposer submitted one (1) Letter of Interest from Financier or a letter regarding self financing?

Yes                      No

- 2. Has the financier submitted Letter of Interest or the Prime Proposer (if self-financing) successfully financed at least three (3) operational projects in the past five (5) years?

Yes                      No

If yes, please identify reference projects (add additional pages if needed):

**Financier #1 or Prime Proposer**

**Project Financing 1**

Location:

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Size (kW-DC):

---

Client:

---

Project Finance Type:

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Project Contact Name:

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Project Contact Email:

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Project Contact Phone:

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Prime Proposer:

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Financing Proposer & Contact:

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**Project Financing 2**

Location:

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Size (kW-DC):

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Client:

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Project Finance Type:

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Project Contact Name:

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Project Contact Email:

---

Project Contact Phone:

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Prime Proposer:

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Financing Proposer & Contact:

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**Project Financing 3**

Location:

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Size (kW-DC):

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Client:

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Project Finance Type:

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Project Contact Name:

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Project Contact Email:

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Project Contact Phone:

---

Prime Proposer:

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Financing Proposer & Contact:

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3. Does Prime Proposer have experience with at least five (5) power purchase agreement contracts with total contracts representing at least \$3 million in project construction costs?

Yes

No

**PART IV: PRIOR EXPERIENCE**

NOTE: Prime Proposer will be automatically disqualified if the answer to any of questions 1 - 7 is "Yes." All questions below MUST be answered.

- 1. Has the Prime Proposer or any of the partners listed above that are associated with designing, building and/or operating and maintaining the projects ever defaulted on a design, construction or operations and maintenance contract?

Yes                      No

- 2. Within the last five (5) years, has a surety proposer completed a contract on behalf of the Prime Proposer or any of its partners listed above, or paid for project completion because one of the members was in default?

Yes                      No

- 3. At the time of submitting this Form, has the Prime Proposer or any of its partners listed above been ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract due to \_\_\_\_\_ County Labor Code?

Yes                      No

- 4. At any time during the last five (5) years, has the Prime Proposer or any of its partners listed above been convicted of a crime involving the awarding of a contract of a government construction project, or a crime relating to the bidding or performance of a government contract?

Yes                      No

- 5. Has the Prime Proposer or any of the non-financial partners listed above, including any of their owners or officers, ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

Yes                      No

- 6. Has the Prime Proposer or any of the non-financial partners listed above, including any of their owners or officers, ever been convicted of a crime involving any federal, state, or local law related to construction?

Yes                      No

- 7. Has the Prime Proposer or any of the non-financial partners listed above, including any of their owners or officers, ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

Yes                      No

**PART V: CERTIFICATION**

I, the undersigned, am authorized to make this verification on behalf of the Prime Proposer, \_\_\_\_\_ . I have read the foregoing Form. I am familiar with its contents and, based upon information available to me, the contents are true and correct. I declare under penalty of perjury under the laws of the state of Illinois and \_\_\_\_\_ County that the foregoing is true and correct.

Executed at		,		on	
	(City)		(State)		(Date)

(Signature) \_\_\_\_\_

(Printed Name) \_\_\_\_\_

(Proposer) \_\_\_\_\_

(Title) \_\_\_\_\_

**ATTACHMENT D**  
**FORM OF OFFER LETTER**

[Proposer's Letterhead]

[Insert Date]

INSERT CITY ADDRESS

Att'n: CONTACT NAME

Reference: Request for Proposals

On-Site Solar Power Purchasing Agreement at Various Municipal Facilities

Dear \_\_\_\_\_:

On behalf of [INSERT NAME OF BIDDER] (the "Proposer"), I am pleased to submit this proposal in response to the above-referenced Request for Proposals (the "RFP") issued by the City of Evanston (the "City"). The Proposer has reviewed the RFP and the attachments thereto, and any addenda thereto (collectively, the "Bid Documents") and has conducted such due diligence and analysis as the Proposer, in its sole judgment, has deemed necessary in order to submit its proposal in response to the RFP.

The Proposer's proposal and the cost components set forth on the attached spreadsheet are based on the Bid Documents as issued and assume no material alteration of the terms of the Bid Documents. (Collectively, the proposal and the cost components on the attached spreadsheet are referred to as the "Proposer's Bid".)

The Proposer's Bid is based on and subject to the following conditions:

1. The Proposer agrees to hold its proposal open for a period of at least one hundred twenty (120) days after the close of Phase 2 of this solicitation.
2. The Proposer represents that, based on the information set forth in the Bid Documents, the prices set forth in the Proposer's Bid represent prices at which the Proposer would be willing to enter into a transaction with the City. The Proposer acknowledges that the Proposer's Bid is one of the factors the City will use to shortlist bidders for Phase 2 of this Solicitation.
3. Both the Proposer and the undersigned represent and warrant that the undersigned has the full legal authority to submit this bid form and bind the Proposer to the terms of the Proposer's Bid. The Proposer further represents and warrants that no further action or approval must be obtained by the Proposer in order to authorize the terms of the Proposer's Bid.



4. The Proposer and its principal team members hereby represent and warrant that they have not: (i) colluded with any other group or person that is submitting a proposal in response to the RFP in order to fix or set prices; (ii) acted in such a manner so as to discourage any other group or person from submitting a proposal in response to the RFP; or (iii) otherwise engaged in conduct that would violate applicable antitrust law.

5. This bid form and the Proposer's Bid are being submitted on behalf of [INSERT FULL LEGAL NAME, TYPE OF ORGANIZATION, AND STATE OF FORMATION FOR THE OFFEROR].

Sincerely,

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

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

Its: \_\_\_\_\_

**ATTACHMENT E**

**DISCLOSURE FORM**

The Proposer and each of its principal team members, if any, must submit a statement that discloses any past or present business, familiar or personal relationship with any of the following individuals:

A. City of Evanston. Please identify any past or present business, familiar, or personal relationship in the space below.

Use extra sheets if necessary.

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B. City of Evanston Elected Officials. Please identify any past or present business, familiar, or personal relationship in the space below.

Use extra sheets if necessary.

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This is to certify that, to the best of my knowledge and belief and after making reasonable inquiry, the above represents a full and accurate disclosure of any past or present business, familiar, or personal relationship with any of the individuals listed above. The undersigned acknowledges and understands that this Disclosure Statement is being submitted to the False Claims Act and that failure to disclose a material relationship(s) may constitute sufficient grounds to disqualify the Proposer.

OFFEROR:

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

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

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

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

**ATTACHMENT G**

**[SOLAR ENERGY POWER PURCHASE AND SALE [or] ENERGY SERVICES] AGREEMENT**

**BY AND BETWEEN**

[\_\_\_\_\_],

**AS SYSTEM OWNER**

**AND**

[\_\_\_\_\_],

**AS the City**

---

**AS OF**

\_\_\_\_\_, 20\_\_

## SOLAR ENERGY [POWER PURCHASE AND SALE [or] ENERGY SERVICES] AGREEMENT

This **SOLAR ENERGY POWER PURCHASE AND SALE AGREEMENT** [or **SOLAR ENERGY SERVICES AGREEMENT**] (this “**Agreement**”) is made and entered into as of [\_\_\_\_\_] (the “**Effective Date**”), by and between [Seller], a [State] [corporation / limited liability company] (“**System Owner**”), and [the City of Evanston, Illinois], (“the City”). Each of System Owner and the City is sometimes referred to as a “**Party**” and together, as the “**Parties.**”

### RECITALS

A. The City owns and controls certain property located at [1801 Main St, Evanston, IL 60202], as more particularly described on the attached **Exhibit A** and incorporated by reference herein (the “**Premises**”), which Premises uses Electricity (as defined in Section 1.2).

B. The City has granted to System Owner access to a portion of the Premises described and depicted on **Exhibit A-1** and incorporated by reference herein (the “**Site**”) together with certain rights of access to, ingress to and egress from, and use of the Premises for the purposes of constructing, installing, operating, maintaining, replacing, and repairing a solar photovoltaic electric generation system, as described on the attached **Exhibit B** and incorporated herein by this reference (the “**System**”), and selling the Electricity generated from the System to the City.

C. System Owner, at the City’s request, intends to design, install, own, operate, and maintain the System for the production of Electricity at the Site per **Attachment A.4 Solar PV Design Specifications**.

D. System Owner desires to sell, and the City desires to purchase, all of the Output (as defined in Section 1.2).

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and undertakings set forth herein, and intending to be legally bound hereby, the Parties hereby agree as follows:

**ARTICLE 1**  
**DEFINITIONS; RULES OF INTERPRETATION**

**Section 1.1 Rules of Interpretation.**

**Section 1.1.1** In this Agreement, unless the context requires otherwise, the singular includes the plural and the plural the singular, words importing any gender include the other gender; references to statutes, sections or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending, replacing, succeeding or supplementing the statute, section or regulation referred to; the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation” or “but not limited to” or words of similar import; references to articles, sections (or subdivisions of sections), exhibits, annexes or schedules are to those of this Agreement unless otherwise indicated; references to agreements and other contractual instruments shall be deemed to include all exhibits and appendices attached thereto and all subsequent amendments and other modifications to such instruments, and references to Persons include their respective successors and permitted assigns.

**Section 1.1.2** The Parties acknowledge that this is an arms-length transaction and, in the event of any dispute over its meaning or application, this Agreement shall be interpreted fairly and reasonably, and neither party shall benefit from a presumption of construction favoring that party.

**Section 1.2 Definitions.**

The following terms have the following meanings:

“Agreement” has the meaning set forth in the introductory paragraph.

“Base Contract Price” means the price in \$U.S. per kWh to be paid by Site Host to System Owner in Year 1 for the purchase of Output, as specified in Article 4 and Exhibit C.

“Business Day” means any day other than Saturday, Sunday, or a day on which the Federal Reserve Bank is authorized or required to be closed.

“Commercial Operation” means the condition existing when (a) the System is capable of generating Electricity for four (4) continuous hours and (b) such Electricity is delivered through the Meter to the Site Electrical System.

“Commercial Operation Date” has the meaning given in Section 4.4.

“Commercial Operation Deadline” has the meaning given in Section 5.1.

“Conditions Precedent” has the meaning given in Section 5.1.

“Delivery Point” has the meaning given in Section 4.2.

“Defaulting Party” has the meaning given in Section 13.1.

“Dispute” has the meaning given in Section 20.1.1.

“Due Date” has the meaning given in Section 8.3.

“Early Termination Date” has the meaning given in Section 13.2.

“Early Termination Fee” has the meaning given in Section 13.4 and Exhibit C.

“Effective Date” has the meaning given in the introductory paragraph.

“Electricity” means electrical energy.

“Electricity Provider” means the entity providing for the supply of electrical energy to the City. Electricity Provider may be, as applicable, Host Utility or an Alternative Electric Retail Supplier (as defined in 220 ILCS 5/16-102).

“Emergency” means an event occurring at the Site, or on the adjoining Premises, that (a) poses actual or imminent risk of (i) serious personal injury or (ii) material physical damage to the System and (b) requires, in the good faith determination of the City or System Owner, immediate preventative or remedial action.

System Financial Incentives do not include Green Attributes.

“Event of Default” has the meaning given in Section 13.1.

“Exercise Notice” has the meaning given in Section 15.7.

“Exercise Period” has the meaning given in Section 15.7.

“Extension Period” has the meaning given in Section 2.1.2.

“Fair Market Value” has the meaning given in Section 15.2. For clarity, Fair Market Value may not equal the Early Termination Fee set forth in Section 13.4 and Exhibit C.

“Final Determination” has the meaning given in Section 15.5.3.

“Force Majeure Event” means any circumstance not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that (a) such circumstance, despite the exercise of due diligence, cannot be or be caused to be prevented, avoided or removed by such Party, (b) such event is not due to such Party’s negligence or intentional misconduct, (c) such event is not the result of any failure of such Party to perform any of its obligations under this Agreement, (d) such Party has taken all reasonable precautions, due care, and reasonable alternative measures to avoid the effect of such event and to mitigate the consequences thereof and (e) such Party has given the other Party prompt notice describing such event, the effect thereof and the actions being taken to comply with this Agreement. Subject to the foregoing conditions, Force Majeure Events may include: adverse weather conditions and other acts of nature, subsurface conditions, riot or civil unrest, actions or failures to act of any governmental authority or agency, but does not include any inability to make any payments that are due hereunder or to any third party, or to procure insurance required to be procured under this Agreement.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the System or its

displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits or any other credits representing environmental attributes now in existence or available in the future. Green Attributes do not include System Financial Incentives.

“The City” has the meaning given to it in the introductory paragraph.

“Host Utility” means the electric distribution company serving or connected to the City or the Site.

“Indemnified Parties” has the meaning given in Section 16.2.

“Indemnifying Party” has the meaning given in Section 16.2.

“Independent Appraisal” means the process for determining a Purchase Price in accordance with Section 15.5.

“Independent Appraiser” has the meaning given in Section 15.5.1.

“Interconnection and Net Metering Agreements” means, collectively, as appropriate, (a) the interconnection or net metering agreement to be entered into by the City or System Owner and Host Utility for the interconnection of the System to the Host Utility system and to net meter the System with the Host Utility, (b) any interconnection services agreement and (c) any studies regarding interconnection of new generation facilities with respect to the System.

“Lender” or “Lenders” means, either in the singular or collectively, as applicable, the banks, financial institutions or other institutional investors providing debt or equity financing for the System and any trustee or agent acting on any such Person’s behalf.

“Mortgagee” means any Person that holds or is the beneficiary of a mortgage, deed of trust, lien, security interest or any other similar encumbrance affecting the Premises, as applicable.

“Meter” means revenue grade meter(s) and electronic data acquisition equipment to be used to continuously measure and record the Output.

“Non-Defaulting Party” has the meaning given in Section 13.2.

“Output” means, and is limited to, the Electricity produced by the System and delivered by System Owner to the City at the Delivery Point.

“Party” or “Parties” has the meaning given to it in the introductory paragraph.

“Permit” means an approval, license, or other authorization from a unit of government including federal, state, provincial, county, municipal, regional, environmental or other governmental body having jurisdiction over System Owner or the City and their respective obligations under this Agreement or over the System or the Site, as may be in effect from time to time.

“Person” means any natural person, partnership, trust, estate, association, corporation, limited liability company, governmental authority or agency or any other individual or entity.

“Preliminary Determination” has the meaning given in Section 15.5.2.

“Premises” has the meaning given to it in the Recitals.

“Purchase Option” has the meaning given in Section 15.1.

“Purchase Price” has the meaning given in Section 15.2.

“Renewable Energy Credits” means all certificates (including tradable renewable certificates), “green tags,” or other transferable indicia denoting carbon offset credits or indicating generation of a particular quantity of energy from a renewable energy source by a renewable energy facility attributed to the Output during the Term created under a renewable energy, emission reduction, or other reporting program adopted by a governmental authority, or for which a registry and a market exists or for which a market may exist at a future time.

“Reporting Rights” means the right of System Owner to report to any federal, state, or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, or under any present or future domestic, international or foreign emissions trading program, that System Owner owns the Green Attributes and the Environmental Financial Incentives associated with the Output.

“Scheduled Outage” has the meaning given to it in Section 10.5.

“Site” has the meaning given to it in the Recitals.

“Site Lease Agreement” has the meaning given to it in the Recitals.

“Site Electrical System” means the City’s existing building electrical systems that are owned or leased, operated, maintained and controlled by the City, and which systems are interconnected with the Host Utility.

“Solar Electricity Price” has the meaning given to it in Section 8.1.

“Subcontractor” means any subcontractor, of any tier, or supplier of services to System Owner or any subcontractor, of any tier.

“System” has the meaning given to it in the Recitals.

“System Assets” means all equipment, facilities and materials, including photovoltaic arrays, DC/AC inverters, wiring, Meters, tools, and any other property now or hereafter installed, owned, operated, or controlled by System Owner for the purpose of, or incidental or useful to, maintaining the use of the solar generation system and providing Output to the City at the Delivery Point, and as it may be modified during the Term. For the avoidance of doubt, the System Assets specifically exclude any part of the Site Electrical System.

“System Financial Incentives” means each of the following financial rebates and incentives that is in effect as of the Effective Date or may come into effect in the future including, but not limited to, (a) any federal, state, or local tax credits, deductions, or other benefits based on ownership of, production from, operation of, or investment in the System, and (2) any grants, loans, or other funding available on advantageous terms based on the characteristics of the System from any source (including units of government, utilities, and private entities).

“System Owner” has the meaning given to it in the introductory paragraph.



“Tax Benefits” means all federal, state and local tax deductions, tax credits, tax grants, and other tax benefits available to taxpayers, including grants under Section 1603 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, as well as any replacements or modifications to such tax deductions, credits, grants or benefits.

“Term” has the meaning given to it in Section 2.1.

“Transfer Date” has the meaning given to it in Section 15.8.

## ARTICLE 2 TERM

### **Section 2.1 Term.**

**Section 2.1.1** This Agreement shall come into full force and effect and become binding on the Parties on the Effective Date and shall be in effect until the later of 00:00 hours on the [tenth] anniversary of the Commercial Operation Date or the end of any Extension Period, unless earlier terminated (the "**Term**").

**Section 2.1.2** The Parties may mutually agree to extend the Term for two (2) consecutive periods of five (5) years each (each such extension, an "**Extension Period**") in accordance with this Section 2.1.2, with each such Extension Period expiring at 00:00 hours on the respective anniversary of the Commercial Operation Date. No fewer than 180 days before the end of the Term, as may be extended pursuant to this Section 2.1.2, System Owner shall provide notice to the City of System Owner's desire to extend the Term for an additional five (5) years. the City shall respond to System Owner's notice within ninety (90) days of receipt indicating whether the City agrees to extend the Term for an additional five (5) years. If the City notifies System Owner that the City does not agree to extend the Term, the Term shall expire in accordance with Section 2.1.1.

**Section 2.1.3** Notwithstanding the provisions of this Section 2 regarding the Effective Date, the Parties agree that this Agreement does not take effect unless and until the following Conditions Precedent have been met:

A. Conditions Precedent to System Owner's Obligations.

- The completion and approval, as applicable, of all necessary governmental filings or applications for Green Attributes and Environmental Financial Incentives relating to the operation of the System;
- The receipt and any applicable required regulatory approval of all Permits relating to the System; and
- The receipt of final approval of the Interconnection and Net Metering Agreements with the Host Utility.

B. Conditions Precedent to the City's Obligations.

The obligations of the City hereunder are conditioned on and subject to the satisfaction or waiver of the following Conditions Precedent. System Owner shall have received all third-party consents necessary to perform its obligations under this Agreement.

**ARTICLE 3**  
**CONSTRUCTION AND INSTALLATION OF SYSTEM**

**Section 3.1 Construction and Installation of System.**

System Owner (or its Subcontractors) shall design, engineer, procure, install, construct, service, test, interconnect and start-up the System at the Site in a good and workmanlike manner, in accordance with all applicable codes, laws and regulations, and consistent with the technical specifications set forth in Exhibit B, which are hereby incorporated in this Agreement.

**Section 3.2 Subcontractors.**

Without limiting System Owner's liability or obligations under this Agreement, System Owner may engage Subcontractors to meet any obligation under this Agreement. Any Subcontractors engaged by System Owner to perform any portion of the obligations described in Section 3.1 shall have all licenses and registrations required to perform the services to be performed by such Subcontractor, and any such Subcontractor must maintain insurance as required pursuant to Section 17.1. Upon request, System Owner shall provide the City with evidence that any such Subcontractor has obtained insurance as required pursuant to Sections 17.1 and Section 17.4.

The System Owner shall obtain prior written approval from the City prior to subcontracting with any entity or person to perform any of the work required under this Agreement. If the System Owner sub-contracts any of the services to be performed under this Agreement, the subcontractor agreement shall provide that the services to be performed under any such agreement shall not be sublet, sold, transferred, assigned or otherwise disposed of to another entity or person without the City's prior written consent. The System Owner shall be responsible for the accuracy and quality of any sub-contractor's work.

All subcontractor agreements shall include verbatim or by reference the provisions in this Agreement binding upon System Owner as to all Services provided by this Agreement, such that it is binding upon each and every subcontractor that does work or provides Services under this Agreement.

**ARTICLE 4**  
**CONNECTION AND DELIVERY POINT; PURCHASE AND SALE OF OUTPUT**

**Section 4.1 Purchase and Sale of Output.**

Commencing on the Commercial Operation Date and continuing throughout the Term, System Owner will make available to the City, and the City will take delivery of, at the Delivery Point, all of the Output produced by the System. Any Output not immediately usable by the City will be exported to the Electricity Supplier pursuant to the Net Metering Tariff or Interconnection and Net Metering Agreements, or other similar agreement as applicable. Each Party agrees that, during the Term, it will not seek to change any of the rates or terms of this Agreement by making a filing or application with any local, state or federal agency with jurisdiction over such rates or terms or exercise any rights a Party may have, if any, to seek changes to such rates or terms. This provision does not affect either Party's ability to amend this Agreement pursuant to section       .

**Section 4.2 Delivery Point.**

System Owner will deliver Output to the physical location where the System connects to the Site Electrical System ("**Delivery Point**"). Title to, risk of loss of, and custody and control of, the Output will pass from System Owner to the City at the Delivery Point.

**Section 4.3 Connection Responsibilities.**

System Owner is responsible for the interconnection of the System to the Site Electrical System and is solely responsible for all equipment, maintenance, and repairs associated with such interconnection equipment in accordance with the terms and conditions of this Agreement. the City shall at all times own and be responsible for the operation and maintenance of the Site Electrical System at and from the Delivery Point, as provided in Section 12.3.

**Section 4.4 Commercial Operation Date.**

System Owner will give the City not fewer than five (5) Business Days' prior written notice that the System will begin Commercial Operation on the date indicated in such notice (such date, the "**Commercial Operation Date**").

**Section 4.5 No Resale by the City.**

The City certifies and agrees that it will use Output for the City's electricity needs, and dispose of excess Output beyond the City's electricity needs through the Interconnection and Net Metering Agreement.

**Section 4.6 Taxes and Other Governmental Charges.**

To the extent that System Owner or the City becomes responsible for the payment of any tax or other government fees as a result of the placement, operation or maintenance of the System on the Premises during the Term of this Agreement, System Owner is responsible for the payment of all such taxes, fees, and/or assessments. Such obligation shall be limited to the construction, operation, and maintenance of the System Assets constructed by the System Owner on the Premises.

## **ARTICLE 5 COMMERCIAL OPERATION DEADLINE**

### **Section 5.1 Commercial Operation Deadline.**

The Parties agree that the Commercial Operation Date must occur on or before \_\_\_ November 1, 2024 \_\_\_\_\_ (“Commercial Operation Deadline”)

System Owner shall use commercially reasonable efforts to (a) cause installation of the System to be completed and (b) cause the System to begin Commercial Operation on or before the Commercial Operation Deadline.

The Parties may, upon mutual written agreement, extend the Commercial Operation Deadline by no more than [180] days.

### **Section 5.2 Termination for Failure to Meet Commercial Operation Deadline.**

If the Commercial Operation Date has not occurred on or before the Commercial Operation Deadline or any extension thereof as provided in Section 5.1 System Owner shall be in default and the City may terminate this Agreement pursuant to the default provisions of Article \_\_\_\_ herein; *provided*, however, that such right to terminate shall not be available to the City if the City’s failure to fulfill any material obligations under this Agreement has been the cause of, or resulted in, the failure to meet the Commercial Operation Deadline.

## **ARTICLE 6 ACCESS AND SPACE PROVISIONS; EMERGENCIES**

### **Section 6.1 Adequate Access for System Owner.**

System Owner and its Subcontractors, agents, consultants, and representatives shall have access to the Premises, the Site, the System, all System Assets, System operations and any documents, materials, records and accounts relating thereto in accordance with and subject to the terms and conditions of the Site Lease Agreement. System Owner must provide the City

written notice 24-hours in advance of System Owner, and any of its subcontractors, agents, consultants and representative intent to access.

**Section 6.2 Emergencies.**

In the event of any Emergency, the City and System Owner, as applicable, shall take such action as may be reasonable and necessary to prevent, avoid and mitigate injury, damage or loss to the System, and any interruption, reduction or disruption of its proper operation, and shall, as soon as practicable, report any such incident, including such Party's response thereto, to the other Party.

**Section 6.3 Data Acquisition System.**

During the Term, the City shall make available to System Owner broadband internet access at the Premises necessary for System Owner's equipment to continuously monitor the System's performance.

**ARTICLE 7**

**OWNERSHIP OF SYSTEM, ENVIRONMENTAL ATTRIBUTES AND FINANCIAL INCENTIVES**

**Section 7.1 System Is Personal Property of System Owner.**

At all times throughout the Term, the System shall be and shall remain System Owner's personal property, shall not be a fixture on the Site, and may be removed by System Owner in accordance with the terms and conditions of this Agreement and the Site Lease Agreement. System Owner shall have the right to file in the central and City records in which the Premises are located financing statements evidencing System Owner's title to the System. Neither the System nor any of its components may be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered by the City. the City shall not cause or permit the System or any part thereof to become subject to any lien, encumbrance, pledge, levy or attachment except for such liens, encumbrances, pledges, levies, or attachments entered into by the System Owner including but not limited to construction liens. However, in no event shall System Owner allow any encumbrances on the System that prevents System Owner from discharging its obligations under this Agreement, including to provide electricity to the City.

**Section 7.2 Ownership of System Financial Incentives and Green Attributes.**

[TBD]

**ARTICLE 8**  
**PURCHASE PRICE, INVOICING AND PAYMENT**

**Section 8.1 Solar Electricity Price.**

The price for Output shall be on a cents-per-kilowatt-hour alternating current basis, as measured by the Meter, beginning at the Base Contract Price, such rate to be adjusted on each anniversary of the Commercial Operation Date, as set forth in the schedule attached as Exhibit C and incorporated by reference herein (the price for Output as in effect from time to time, the “Solar Electricity Price”).

**Section 8.2 Invoices.**

Each month, System Owner shall prepare and provide the City with an invoice for the Output delivered in the prior month. The amount due for the Output shall be determined by multiplying the Solar Electricity Price then in effect by the Output deemed delivered to the City during such month, and each invoice will set forth in reasonable detail the calculation of all amounts owed to System Owner.

**Section 8.3 Payments.**

The City shall approve, disapprove, and pay invoices from System Owner in accordance with the provisions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*

**ARTICLE 9**  
**METERING**

**Section 9.1 Meter.**

System Owner shall install the Meter at the Delivery Point to measure the amount of Output delivered by System Owner to the City. System Owner shall own, operate and maintain the Meter during the Term at its own expense.

**Section 9.2 Meter Reading.**

System Owner shall read the Meter at the end of each calendar month, and shall record the Output delivered to the City. The Meter shall be used as the basis for calculating the amounts to be invoiced pursuant to Section 8.2. Upon written request, System Owner will make available to the City the records from the Meter.

**Section 9.3 Calibration.**

**Section 9.3.1** System Owner shall provide calibration testing of the Meter prior to its installation and at least annually thereafter to ensure the accuracy of the Meter. the City may request that System Owner perform more frequent testing; *provided*, however, that if such tests indicate that the Meter is accurate within two percent (2.0%), then any such testing in excess of the annual tests shall be at the City's expense. the City shall be entitled to witness such tests.

**Section 9.3.2** If, upon testing, any Meter is found to be accurate or in error within two percent (2%), then previous recordings of such Meter shall be considered accurate in computing deliveries of Output hereunder, but such Meter shall be promptly adjusted, if necessary, to record correctly.

**Section 9.3.3** If, upon testing, any Meter shall be found to be inaccurate by an amount more than plus or minus two percent (2%), then the System Owner shall promptly repair or adjust such Meter to record properly and any previous recordings by such Meter shall be corrected to zero error. If no reliable information exists as to the period over which such Meter registered inaccurately, it shall be assumed for purposes of correcting previously delivered invoices that such inaccuracy began at a point in time midway between the testing date and the next previous date on which such Meter was tested and found to be accurate. If the difference in the previously invoiced amounts minus the adjusted payment is a positive number, that difference shall offset amounts owed by the City to the System Owner in subsequent month(s). If the difference is a negative number, the difference shall be added to the next month's invoice and addressed by the City as set forth in Section 8.3 of this Agreement.

**ARTICLE 10  
INTERRUPTION OF SERVICE; SCHEDULED OUTAGES**

**Section 10.1 Obstructions.**

The City shall not install or permit to be installed on the Premises (or any other property owned or controlled by the City) any physical obstruction that has or could reasonably be expected to have the effect of reducing Output.

**Section 10.2 Interruption of Output.**

Notwithstanding anything to the contrary herein, System Owner shall have the right to interrupt, reduce or discontinue the delivery of Output for purposes of inspecting, maintaining,



repairing, replacing, constructing, installing, removing, or altering the equipment used for the production or delivery of Output, or at the direction of authorized governmental authorities or electric utilities. Other than unexpected interruptions or Emergencies, System Owner shall give the City notice at least five (5) Business Days before an interruption of Output deliveries and an estimate of the expected duration of the interruption. Both System Owner and the City shall use commercially reasonable efforts to minimize any such interruption or disruption in delivery.

### **Section 10.3 Repair and Maintenance.**

**Section 10.3.1** System Owner shall use commercially reasonable efforts to maintain the System in good working order, and shall operate the System in accordance with all applicable laws, regulations and ordinances.

**Section 10.3.2** The City shall be solely responsible for the repair and maintenance of the Premises, including the Site and the Site Electrical System; *provided*, however, that if such repair, maintenance or replacement is caused by the negligence or intentional misconduct of System Owner, then System Owner shall be responsible for such costs to the extent of its negligence or intentional misconduct. the City and System Owner shall coordinate such activities so as to minimize disruption to the System.

**Section 10.3.3** The City shall notify System Owner immediately upon the City's knowledge of (a) any material malfunction of or damage to the System and (b) any interruption or alteration of Output to the Premises.

**Section 10.3.4** The City may not adjust, modify, maintain, alter, service or in any way interfere with the System, except in the event of an Emergency; *provided*, however, that the City shall give System Owner prompt telephonic notice in such emergency that it has taken such emergency actions.

**Section 10.3.5** System Owner shall bear the costs associated with restoring service following any interruption of the supply of Electricity from the System as a result of System Owner's operation of the System. The City shall bear the costs associated with the restoration of the delivery of Output if an interruption of such supply of Electricity is caused by the actions or inactions of the City or the condition of the Site Electrical System.

### **Section 10.4 Scheduled Outages.**

The City may schedule up to two (2) full twenty-four (24) hour periods of disconnection from the System (each, a "**Scheduled Outage**") per calendar year during the Term, during which days the City shall not be obligated to accept or pay for electricity from the System; provided,

however, that the City must notify System Owner in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. If Scheduled Outages exceed two (2) days per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, System Owner will reasonably estimate the amount of electricity that would have been delivered to the City during such excess Scheduled Outages or unscheduled outages and will invoice the City for such amount in accordance with Section 8.2.

## **ARTICLE 11 REPRESENTATIONS**

### **Section 11.1 Mutual Representations.**

The Parties make the following mutual representations and warranties:

#### **Section 11.1.1 Due Organization.**

Each Party represents that it is duly organized, validly existing and in good standing under the laws of its respective formation.

#### **Section 11.1.2 Due Authorization.**

Each Party represents that it is duly authorized and has the power to enter into this Agreement and perform its obligations hereunder.

#### **Section 11.1.3 No Consent Required.**

Each Party represents that it has all the rights required to enter into this Agreement and perform its obligations hereunder without the consent of any third party, including any Mortgagee.

#### **Section 11.1.4 Accuracy of Information.**

The information provided pursuant to this Agreement as of the Effective Date is true, correct and complete in all material respects.

### **Section 11.2 Additional the City Representations.**

The City makes the following additional representations and warranties to System Owner:

#### **Section 11.2.1 No Conflict.**

This Agreement is enforceable against the City in accordance with its terms and, to the best of the City's knowledge after reasonable review, does not conflict with or violate the terms of any other agreement to which the City is a party or by which the City is bound, including, if

applicable, the City's organizational documents and any agreement pursuant to which the City has financed the Premises or the Site. This includes any agreement with an Alternative Retail Electric Supplier (as defined in 220 ILCS 5/16-102) or an Agent, Broker, or Consultant (as defined in 220 ILCS 5/16-115C).

**Section 11.2.2 Ownership and Control over Premises.**

The City has sole authority to authorize construction and operation of all components of System.

**Section 11.3 Additional System Owner Representations.**

System Owner makes the following additional representations and warranties to the City:

**Section 11.3.1 No Conflict.**

This Agreement is enforceable against System Owner in accordance with its terms and does not conflict with or violate the terms of any other agreement to which System Owner is a party or by which System Owner is bound, including its organizational documents.

**Section 11.3.2 Ability to Perform.**

System Owner has no knowledge of any facts or circumstances that, but for the passage of time, would materially adversely affect System Owner's ability to perform its obligations hereunder.

**Section 11.3.3 Delivery of Output.**

System Owner will deliver to the City the Output free and clear of all liens, security interests, claims and encumbrances, or any interest therein, or thereto, by any Person.

**Section 11.3.4 Services.**

System Owner represents and warrants that: (1) System Owner possesses and will keep in force all required licenses to perform the Services; (2) the employees of System Owner performing the Services are fully qualified, licensed as required, and skilled to perform the Services.

System Owner shall perform all services in a professional and workmanlike manner. All services performed and documentation (regardless of format) provided by System Owner shall be in accordance with the standards of reasonable care and skill of the profession, free from errors or omissions, ambiguities, coordination problems, and other defects. System Owner shall take

into account any and all applicable plans and/or specifications furnished by the City, or by others at the City's direction or request, to System Owner during the term of this Agreement. All materials, buildings, structures, or equipment designed or selected by System Owner shall be workable and fit for the intended use thereof, and will comply with all applicable governmental requirements. System Owner shall require its employees to observe the working hours, rules, security regulations and holiday schedules of the City while working and to perform its Services in a manner which does not unreasonably interfere with the City's business and operations, or the business and operations of other tenants and occupants which may be affected by the work relative to this Agreement. System Owner shall take all necessary precautions to assure the safety of its employees who are engaged in the performance of the Services, all equipment and supplies used in connection therewith, and all property of the City or other parties that may be affected in connection therewith. If requested by the City, System Owner shall promptly replace any employee or agent performing the Services if, in the opinion of the City, the performance of

the employee or agent is unsatisfactory.

System Owner is responsible for conforming its final work product to generally accepted professional standards for all work performed pursuant to this Agreement. Nothing in this Agreement accords any third-party beneficiary rights whatsoever to any non-party to this Agreement that any non-party may seek to enforce. System Owner acknowledges and agrees that should System Owner or its subcontractors provide false information, or fail to be or remain in compliance with this Agreement; the City may void this Agreement.

**Section 11.3.5** The System Owner shall obtain prior approval from the City prior to subcontracting with any entity or person to perform any of the work required under this Agreement. If the System Owner sub-contracts any of the services to be performed under this Agreement, the sub-contract agreement shall provide that the services to be performed under any such agreement shall not be sublet, sold, transferred, assigned or otherwise disposed of to another entity or person without the City's prior written consent. The System Owner shall be responsible for the accuracy and quality of any sub-contractor's work.

All sub-contractor agreements shall include verbatim or by reference the provisions in this Agreement binding upon System Owner as to all Services provided by this Agreement, such that it is binding upon each and every sub-contractor that does work or provides Services under this Agreement.

System Owner shall not assign or sub-contract all or any part or its rights or obligations hereunder without the City's express prior written approval. Any attempt to do so without the City's prior consent shall, at the City's option, be null and void and of no force or effect whatsoever. System Owner shall not employ, contract with, or use the services of any other architect, interior designer, engineer, System Owner, special contractor, or other third party in connection with the performance of the Services without the prior written consent of the City.

**Section 11.3.6** The System Owner shall cooperate fully with the City, other the City contractors, other municipalities and local government officials, public utility companies, and others, as may be directed by the City. This shall include attendance at meetings, discussions and hearings as requested by the City. This cooperation shall extend to any investigation, hearings or meetings convened or instituted by the City, any of its departments, and/or OSHA relative to this Project, as necessary. System Owner shall cooperate with the City in scheduling and performing its Work to avoid conflict, delay in or interference with the work of others, if any, at the Project.

**Section 11.3.7** System Owner acknowledges and agrees that should the System Owner or its sub-contractor provide false information, or fails to be or remain in compliance with the Agreement, the City may void this Agreement.

**Section 11.3.8** System Owner certifies that it and its employees will comply with applicable provisions of the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. Section 1201 et seq.) and applicable rules in performance under this Agreement.

**Section 11.3.9** If System Owner, or any officer, director, partner, or other managerial agent of System Owner, has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, System Owner certifies at least five years have passed since the date of the conviction.

**Section 11.3.10** System Owner certifies that it has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any State in the U.S., nor made any admission of guilt of such conduct that is a matter of record. (720 ILCS 5/33 E-3, E-4).

**Section 11.3.11** In accordance with the Steel Products Procurement Act, System Owner certifies steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the U.S. unless the City grants an exemption.

**Section 11.3.12** System Owner certifies that it is properly formed and an existing legal entity, and as applicable, has obtained an assumed name certificate from the appropriate authority, or has registered to conduct business in Illinois and is in good standing with the Illinois Secretary of State.

**Section 11.3.13** If more favorable terms are granted by System Owner to any similar governmental entity in any state in a contemporaneous agreement let under the same or similar financial terms and circumstances for comparable supplies or services, the more favorable terms shall be applicable under this Agreement.

**Section 11.3.14** System Owner certifies that it is not delinquent in the payment of any fees, fines, damages, or debts to the City of Evanston.

**Section 11.3.15 Equal Employment Opportunity**

In the event of the System Owner's noncompliance with any provision of Section 1-12-5 of the

Evanston City Code, the Illinois Human Rights Act or any other applicable law, the System Owner may be declared non-responsible and therefore ineligible for future contracts or sub-contracts with the City, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

During the performance of the contract, the System Owner agrees as follows:

(1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization. System Owner shall comply with all requirements of City of Evanston Code Section 1-12-5.

(2) That, in all solicitations or advertisements for employees placed by it on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.

**Section 11.3.16 Sexual Harassment Policy**

The System Owner certifies pursuant to the Illinois Human Rights Act (775 ILCS 5/2105 *et. seq.*), that it has a written sexual harassment policy that includes, at a minimum, the following information:

- (1) The illegality of sexual harassment;
- (2) The definition of sexual harassment under State law;
- (3) A description of sexual harassment utilizing examples;
- (4) The System Owner’s internal complaint process including penalties;
- (5) Legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission, and directions on how to contact both; and
- (6) Protection against retaliation as provided to the Department of Human Rights.

**Section 11.3.16 Compliance with Applicable Statutes, Ordinances and Regulations.**

In performing the Services, System Owner shall comply with all applicable federal, state, county, and municipal statutes, ordinances and regulations, at System Owner’s sole cost and

expense, except to the extent expressly provided to the contrary herein. Whenever the City deems it reasonably necessary for security reasons, the City may conduct at its own expense, criminal and driver history background checks of System Owner's officers, employees, sub-contractors, or agents. System Owner shall immediately reassign any such individual who in the opinion of the City does not pass the background check.

**Section 11.3.17 Liens and Encumbrances.**

System Owner, for itself, and on behalf of all sub-contractors, suppliers, materialmen and others claiming by, through or under System Owner, hereby waives and releases any and all statutory or common law mechanics' materialmen's' or other such lien claims, or rights to place a lien upon the City property or any improvements thereon in connection with any Services performed under or in connection with this Agreement. System Owner further agrees, as and to the extent of payment made hereunder, to execute a sworn affidavit respecting the payment and lien releases of all sub-contractors, suppliers and materialmen, and a release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the City. System Owner shall protect the City from all liens for labor performed, material supplied or used by System Owner and/or any other person in connection with the Services undertaken by System Owner hereunder, and shall not at any time suffer or permit any lien or attachment or encumbrance to be imposed by any sub-contractor, supplier or materialmen, or other person, proposer or corporation, upon the City property or any improvements thereon, by reason or any claim or demand against System Owner or otherwise in connection with the Services.

**ARTICLE 12  
COVENANTS OF THE PARTIES**

**Section 12.1 Permits.**

During the Term, System Owner shall obtain and maintain in effect all Permits, approvals, and other authorizations that may be required by any governmental agency or authority or by the Host Utility in connection with the interconnection and operation of the System. Those permits include, but are not limited to:

- Construction permits;



- Certification of all entities (including, as applicable, System Owner or any subcontractors) pursuant to 83 Ill. Admin. Code Part 468 as Distributed Generation Installers to the extent required under Part 468 and 220 ILCS 5/16-128A;
- Enrollment in the Net Metering program pursuant to 83 Ill. Admin. Code Part 465 of the Host Utility or Electricity Provider, as applicable;

### **Section 12.2 Compliance.**

During the Term, the applicable Party, as described in Section 12.1, (a) shall comply with, maintain in effect, and promptly notify the other Party of any change in status to, all such Permits, approvals, and authorizations; (b) shall maintain the Interconnection and Net Metering Agreements; and (c) shall meet all requirements imposed by the Host Utility, Electricity Provider (if different), and any federal, state or local government agencies with respect to the Interconnection and Net Metering Agreements and to the sale and purchase of the Output.

### **Section 12.3 Upgrades.**

The City shall perform (or arrange for the performance of) all normal maintenance and upgrades to the Site Electrical System to maintain the Site Electrical System in good working order, and such other maintenance and upgrades as may be required by the Host Utility or applicable laws, regulations, ordinances, and codes.

## **ARTICLE 13 DEFAULT; LENDER CURE RIGHTS**

### **Section 13.1 Events of Default.**

An “Event of Default” means, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

#### **Section 13.1.1 System Owner Failure to Deliver.**

The failure to deliver or cessation by System Owner of delivery of Electricity to the City for a continuous period of five (5) calendar days unless (i) System Owner’s performance is excused by a Force Majeure event, or by action or inaction of the City, , and System Owner is diligently pursuing a cure, (ii) System Owner is willing to pay the City during the term of such non-performance liquidated damages equal to cost of replacement power, or (iii) System Owner is (A) unable to resume delivery within 5 days from cessation and (B) is taking reasonable steps to resume delivery, but in that event, System Owner shall be in default if it fails to resume delivery of Electricity within twenty one (21) days of cessation.

**Section 13.1.2 The City's Failure to Comply.**

The City's failure to comply with the provisions of the Local Government Prompt Payment Act, 50 ILCS 505/1. Payments made by the City pursuant to this Agreement are subject to sufficient appropriations made by the City of Evanston City Council. In the event of non-payment resulting from non-appropriation or insufficient appropriation by the City Council, this Agreement is terminated and the City's obligations hereunder shall cease and there shall be no penalty or further payment required.

**Emergency Termination.** In the event of an emergency or threat to the life, safety or welfare of the citizens of the City of Evanston, the City shall have the right to terminate this Agreement without prior written notice and such termination shall not be considered an Event of Default.

**Section 13.1.3 Material Misrepresentation as of Effective Date.**

If the representations and warranties and other statements made by a Party hereunder or as part of the bidding process misrepresent a material fact as of the Effective Date, and such misrepresentation has a material adverse effect and such effect is not cured within thirty (30) days from the earlier of (a) notice from the Non-Defaulting Party or (b) the discovery or determination by the Defaulting Party of the misrepresentation; *except* that if the Defaulting Party commences an action to cure such misrepresentation within such sixty (60)-day period, and thereafter proceeds with all due diligence to cure such failure, the cure period shall extend for an additional sixty (60) days.

**Section 13.1.4 Failure to Meet Material Obligations.**

Except as otherwise expressly set out in this Article 13, if a Party fails to perform fully any material provision of this Agreement and either (a) such failure continues for a period of thirty (30) days after written notice of such nonperformance or (b) if the Defaulting Party commences an action to cure such failure to perform within such sixty (60-) day period, and thereafter proceeds with all due diligence to cure such failure, and such failure is not cured within sixty (60) days after the expiration of the initial sixty (60)-day period.

**Section 13.2 Remedies for Event of Default.**

If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing, the other Party ("**Non-Defaulting Party**") shall, without limiting the rights or remedies available to the Non-Defaulting Party under this Agreement, applicable law or in equity, have the right: (a) by notice to the Defaulting Party, to designate a date, not earlier than the date of such notice and not later than thirty (30) Business Days after such date, as an early termination date ("**Early Termination Date**") in respect of this Agreement; (b) to withhold any payments due to the Defaulting Party under this Agreement until such Event of Default is

resolved; and (c) to suspend performance due to the Defaulting Party under this Agreement until such Event of Default is resolved. If the Non-Defaulting Party designates an Early Termination Date, this Agreement will terminate as of the Early Termination Date. Any City remedies in the event of a System Owner default are subject to Lender cure rights as set forth in Section 19.3.

**Section 13.3 Additional the City Rights Upon Termination for Default.**

If the City is the Non-Defaulting Party, and the City elects to terminate this Agreement as provided in Section 13.2, the City shall be entitled, in its sole and absolute discretion, either to (a) require that System Owner remove and properly dispose of the System and System Assets, including any and all related equipment and materials, at System Owner's sole cost and expense (or to remove and have stored the System at System Owner's sole cost and expense, if System Owner fails to commence to remove the System within sixty (60) days after the Early Termination Date), or (b) exercise the Purchase Option provided in Article 15.

**Section 13.4 No Cross Default.**

The Parties acknowledge and agree that any default by a party to the Site Lease Agreement shall not constitute an Event of Default under this Agreement, and that any such default under the Site Lease Agreement shall be addressed according to the terms of the Site Lease Agreement.

**Section 13.5 Remedy.**

The City does not waive any right to exercise any option to cure any breach or default on the part of System Owner or its subcontractors, including but not limited to injunctive relief, an action in law or equity or termination of this Agreement as outlined in this Section pertaining to Default/Cure.

**ARTICLE 14  
FORCE MAJEURE**

**Section 14.1 Force Majeure.**

Neither System Owner nor the City shall be considered to be in default in the performance of its obligations under this Agreement to the extent that performance of any such obligation is prevented or delayed by a Force Majeure Event. If a Party is prevented or delayed in the performance of any such obligation by a Force Majeure Event, then such Party shall immediately provide notice to the other Party of the circumstances preventing or delaying

performance and the expected duration thereof. Receipt of such notice shall be confirmed in writing as soon as reasonably possible. The Party whose work is prevented or delayed by a Force Majeure Event shall use commercially reasonable efforts to remove or repair the cause of the Force Majeure Event and shall resume performance of its obligations as soon as reasonably practicable.

## **ARTICLE 15**

### **PURCHASE OPTION; EXPIRATION**

#### **Section 15.1 The City's Purchase Option.**

For and in consideration of the payments made by the City under this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, System Owner hereby grants the City the right and option to purchase all of System Owner's right, title and interest in and to the System and System Assets at Fair Market Value, as defined below, on the terms set forth in this Article 15 (the "**Purchase Option**"). The Purchase Option is irrevocable by System Owner and may be exercised by the City as follows: (a) at the conclusion of the Term, including any Extension Period; (b) on the sixth (6th), tenth (10th) or fourteenth (14th) anniversary of the Commercial Operation Date; or (c) as an additional remedy in the Event of Default by System Owner, as described in Section 13.3.

#### **Section 15.2 Purchase Price.**

The price payable by the City for the System and System Assets upon execution of the Purchase Option shall be equal to the "**Fair Market Value**," which shall be determined in an arm's-length transaction between the Parties pursuant to which the City shall be under no compulsion to purchase the System or the System Assets; or, if no agreement is reached between the Parties, as such Fair Market Value is determined by an Independent Appraisal pursuant to Section 15.5 (the "**Purchase Price**").

#### **Section 15.3 The City's Request for a Determination of Purchase Price.**

No fewer than (a) one hundred eighty (180) days before the end of the Term, including any Extension Period, or the sixth (6th), tenth (10th) or fourteenth (14th) anniversary of the Commercial Operation Date; or (b) upon an Event of Default by System Owner under Article 13, the City shall have the right to provide a notice to System Owner requiring a determination of the Purchase Price pursuant to Section 15.4.

#### **Section 15.4 Determination of Purchase Price.**

Within thirty (30) days of System Owner's receipt of a notice provided under Section 15.3, System Owner and the City shall mutually agree upon a Purchase Price for the System and

System Assets, an Independent Appraisal shall be obtained pursuant to Section 15.5 to determine the Purchase Price at the discretion of either party.

**Section 15.5 Independent Appraiser to Determine the Purchase Price.**

**Section 15.5.1 Selection of Independent Appraiser.**

No more than ten (10) days following agreement to obtain an Independent Appraisal, the Parties shall agree upon the identity of an independent appraiser to determine the Fair Market Value of the System and System Assets (the "Independent Appraiser").

**Section 15.5.2 Preliminary Determination.**

The Independent Appraiser shall make a preliminary determination of the Fair Market Value of the System and System Assets (the "Preliminary Determination").

**Section 15.5.3 Final Determination.**

The Independent Appraiser shall provide such Preliminary Determination to System Owner and the City, together with all supporting documentation detailing the calculation of the Preliminary Determination. The System Owner and the City shall have the right to object to the Preliminary Determination within ten (10) days of receiving such Preliminary Determination. Within ten (10) Business Days after (i) receiving any such notice of objection to the Preliminary Determination or (ii) receiving no such notice of objection to the Preliminary Determination, the Independent Appraiser shall issue the Independent Appraiser's final determination ("Final Determination") to System Owner and the City, which shall specifically address any objections received by the Independent Appraiser and whether such objections were taken into account in making the Final Determination. Except in the case of fraud or manifest error, the Final Determination of the Independent Appraiser shall be final and binding on the Parties.

**Section 15.6 Costs and Expenses of Independent Appraisal.**

If an Independent Appraisal is requested by the City, then the City shall be responsible for payment of the costs and expenses associated with obtaining the Independent Appraisal. If an Independent Appraisal is requested by the System Owner, then the System Owner shall be responsible for payment of the costs and expenses of any Independent Appraiser engaged by the Parties.

**Section 15.7 Exercise of Purchase Option.**

The City shall exercise the Purchase Option, at the Purchase Price set forth in the Final Determination or as mutually agreed upon by the Parties, within ninety (90) Business Days after the date of the Final Determination, or, if the City and System Owner have mutually agreed

upon a Purchase Price, the date that the Parties agree upon a Purchase Price (such period, the “**Exercise Period**”). the City must exercise its Purchase Option during the Exercise Period by providing a notice (an “**Exercise Notice**”) to the System Owner. Once the City delivers its Exercise Notice to the System Owner, such exercise shall be irrevocable.

Upon at least three (3) Business Days’ prior written notice from the City at any time during the Exercise Period, System Owner shall make the System, including records relating to the operations, maintenance, and warranty repairs, available to the City for its inspection during normal business hours.

#### **Section 15.8 Transfer Date.**

The closing of any sale of the System and System Assets (the “**Transfer Date**”) pursuant to this Article will occur no later than thirty (30) Business Days following the date on which the City provides its Exercise Notice. With the exception of any provisions that expressly survive termination of this Agreement, System Owner’s duties and obligations under this Agreement shall terminate on the Transfer Date.

#### **Section 15.9 Terms of System Purchase.**

On the Transfer Date: (a) System Owner shall surrender and transfer to the City all of System Owner’s right, title, and interest in and to the System and System Assets as of the Transfer Date, free and clear of any Liens, and shall retain all liabilities arising from or related to the System and System Assets before the Transfer Date; (b) the City shall pay the Purchase Price and shall assume all liabilities arising from or related to the System from and after the Transfer Date; and (c) both Parties shall (i) execute and deliver a bill of sale and assignment of warranties, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System and System Assets in the City, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third-party consents and approvals and such similar documents as may be reasonably necessary to complete the sale of the System and System Assets to the City. Upon such execution and delivery of the foregoing documents and payments, this Agreement will terminate, and the City will own the System, System Assets, and all Environmental Financial Incentives and Green Attributes relating to the System.

#### **Section 15.10 System Removal at Expiration.**

If the City does not exercise its Purchase Option, then at the end of the Term, as may be extended pursuant to Section 2.1.2, System Owner shall remove the System and System Assets from the Premises at System Owner’s expense within one hundred twenty (120) days after the

expiration of the Term. Upon removal, System Owner shall endeavor to reuse or recycle any System materials and Assets to the extent possible and to the best of its abilities. To the extent that System Owner removes any or all of the System and System Assets, System Owner shall make or have made any repairs to the Premises to the extent necessary to repair any adverse impact such removal directly causes to the Premises.

**ARTICLE 16**  
**LIABILITY; INDEMNIFICATION**

**Section 16.1 Liability and Responsibility.**

**Section 16.1.1 System Owner.**

System Owner agrees to pay the City for the reasonable costs and expenses directly relating to the breach of any representation, warranty, or covenant of System Owner hereunder. System Owner further agrees to pay for the reasonable costs and expenses of any repairs to or loss of the Premises or the City's personal property or fixtures on the Premises, to the extent resulting

from negligence or intentional misconduct of System Owner or any of its contractors, second-tier contractors, agents, employees, partners, owners, subsidiaries or affiliates.

**Section 16.2 Indemnification.**

System Owner shall defend, indemnify and hold harmless the City and its officers, elected and appointed officials, agents, and employees from any and all liability, losses, or damages as a result of claims, demands, suits, actions, or proceedings of any kind or nature, including but not limited to costs, and fees, including attorney's fees, judgments or settlements, resulting from or arising out of any negligent or willful act or omission on the part of the System Owner or System Owner's sub-contractors, employees, agents or subcontractors during the performance of this Agreement. Such indemnification shall not be limited by reason of the enumeration of any insurance coverage herein provided. This provision shall survive completion, expiration, or termination of this Agreement.

To the extent permissible by law, System Owner waives any limits to the amount of its obligations to indemnify, defend, or contribute to any sums due under any Losses, including any claim by any employee of System Owner that may be subject to the Illinois Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision, including but not limited to, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute.

System Owner shall be responsible for any losses and costs to repair or remedy work performed under this Agreement resulting from or arising out of any act or omission, neglect, or misconduct in the performance of its Work or its sub-System Owners' work. Acceptance of the work by the City will not relieve the System Owner of the responsibility for subsequent correction of any such error, omissions and/or negligent acts or of its liability for loss or damage resulting therefrom. All provisions of this Section shall survive completion, expiration, or termination of this Agreement.

**Section 16.3 Defense of Claims.**

Nothing contained herein shall be construed as prohibiting the City, or its officers, agents, or employees, from defending through the selection and use of their own agents, attorneys, and experts, any claims, actions or suits brought against them. The System Owner shall be liable for the costs, fees, and expenses incurred in the defense of any such claims, actions, or suits. Nothing herein shall be construed as a limitation or waiver of defenses available to the City and employees and agents, including but not limited to the Illinois Local Governmental and



Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 *et seq.*

At the City of Evanston Corporation Counsel's option, System Owner must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving System Owner of any of its obligations under this Agreement. Any settlement of any claim or suit related to this Agreement by System Owner must be made only with the prior written consent of the City of Evanston Corporation Counsel, if the settlement requires any action on the part of the City.

## **ARTICLE 17 INSURANCE**

### **Section 17.1 Insurance.**

System Owner shall carry and maintain at its own cost with such companies as are reasonably acceptable to the City all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement, for damages caused or contributed to by System Owner, and insuring System Owner against claims which may arise out of or result from System Owner's performance or failure to perform the Services hereunder: (1) worker's compensation in statutory limits and employer's liability insurance in the amount of at least \$500,000, (2) comprehensive general liability coverage, and designating the City as additional insured for not less than \$3,000,000 combined single limit for bodily injury, death and property damage, per occurrence, (3) comprehensive automobile liability insurance covering owned, non-owned and leased vehicles for not less than \$1,000,000 combined single limit for bodily injury, death or property damage, per occurrence, and (4) errors and omissions or professional liability insurance respecting any insurable professional services hereunder in the amount of at least \$1,000,000. System Owner shall give to the City certificates of insurance for all Services done pursuant to this Agreement before System Owner performs any Services, and, if requested by the City, certified copies of the policies of insurance evidencing the coverage and amounts set forth in this Section. The City may also require System Owner to provide copies of the Additional Insured Endorsement to said policy (ies) which name the City as an Additional Insured for all of System Owner's Services and work under this Agreement. Any limitations or modification on the certificate of insurance issued to the City in compliance with this Section that conflict with the provisions of this Section shall have no force and effect. System Owner's certificate of insurance shall contain a provision that the coverage afforded under the policy(s) will not be canceled or reduced without thirty (30) days prior written notice (hand delivered or registered mail) to the City. System Owner understands that

the acceptance of certificates, policies and any other documents by the City in no way releases the System Owner and its sub-contractors from the requirements set forth herein. System Owner expressly agrees to waive its rights, benefits and entitlements under the "Other Insurance" clause of its commercial general liability insurance policy as respects the City. In the event System Owner fails to purchase or procure insurance as required above, the parties expressly agree that System Owner shall be in default under this Agreement, and that the City may recover all losses, attorney's fees and costs expended in pursuing a remedy or reimbursement, at law or in equity, against System Owner.

System Owner acknowledges and agrees that if it fails to comply with all requirements of this Section, that the City may void this Agreement.

## **ARTICLE 18**

### **SYSTEM RELOCATION; ASSIGNMENT**

#### **Section 18.1 System Relocation.**

If the City ceases to conduct operations at or vacates the Premises before the expiration of the Term, then upon not fewer than one hundred twenty (120) days' prior written notice, the City shall have the option to provide System Owner with a mutually agreeable substitute premises located within the same Host Utility territory as the Premises. In connection with such substitution, this Agreement will be amended to reflect the substitute premises. The City shall pay all costs associated with relocation of the System, including but not limited to all costs and expenses incurred by or on behalf of System Owner in connection with removal of the System from the Premises, and installation and testing of the System at the substitute premises and all applicable interconnection fees and expenses. System Owner shall remove the System from the vacated Premises before the termination of the City's ownership, lease or other rights to use such Facility.

#### **Section 18.2 Assignment by the City.**

The City shall not assign this Agreement or delegate the City's duties and obligations hereunder without the consent of System Owner, which consent not to be unreasonably withheld. Without limiting the generality of the foregoing, in connection with any conveyance by the City of any interest in Premises that impacts (i) the Interconnection Agreement, (ii) rights or access to the System or System Assets, or (iii) ownership or operation of the City's electric system excluding the System, the City may (a) assign this Agreement to the fee purchaser of the Premises, pursuant to an assignment and assumption agreement reasonably acceptable to System Owner; or (b) if such sale and conveyance occurs after the sixth (6<sup>th</sup>) anniversary of the Commercial Operations Date, purchase the System pursuant to Article 15.

**Section 18.3 Assignment by System Owner.**

**Section 18.3.1**

Subject to Section 18.3.2, System Owner may, with the consent of the City (which consent shall not be unreasonably withheld), assign its interest in, and be released from its obligations under, this Agreement to an assignee, as long as the assignee shall expressly assume this Agreement and agree to be bound by the terms and conditions hereof.

**Section 18.3.2**

System Owner may, without the consent of the City, (a) transfer, pledge or assign all or substantially all of its rights and obligations hereunder as security for any financing and/or sale leaseback transaction or to an affiliated special purpose entity created for the financing or tax credit purposes related to the System, (b) transfer or assign this Agreement to any Person or entity succeeding to all or substantially all of the assets of System Owner; *provided*, however, that any such assignee shall agree to be bound by the terms and conditions hereof, (c) assign this Agreement to one or more affiliates; *provided*, however, that any such assignee shall agree to be bound by the terms and conditions hereof or (d) assign its rights under this Agreement to a successor entity in a joint venture, merger or acquisition transaction; *provided*, however, that any such assignee shall agree to be bound by the terms and conditions hereof. the City agrees to provide acknowledgements, consents, or certifications reasonably requested by any Lender in conjunction with any financing.

**ARTICLE 19  
LENDER PROTECTION**

**Section 19.1 Notice of Lender.**

System Owner shall notify the City of the identity of any Lender within thirty (30) days of any such party becoming a Lender and shall deliver to the City all applicable contact information for such Lender.

**Section 19.2 Lender Collateral Assignment.**

Upon notice and delivery by System Owner pursuant to Section 19.1 of the name and contact information for any Lender, then the City hereby:

**Section 19.2.1**

Acknowledges the collateral assignment by System Owner to the Lender, of System

Owner's right, title and interest in, to and under this Agreement, as consented to under Section 19.2.2;

**Section 19.2.2**

Acknowledges that any Lender as such collateral assignee shall be entitled to exercise any and all rights of lenders generally with respect to System Owner's interests in this Agreement;

**Section 19.2.3**

Acknowledges that it has been advised that System Owner has granted a security interest in the System to the Lender and that the Lender has relied upon the characterization of the System as personal property, as agreed in this Agreement, in accepting such security interest as collateral for its financing of the System; and

**Section 19.2.4**

Acknowledges that any Lender shall be an intended third-party beneficiary of this Article 19.

**Section 19.2.5**

Any security interest filing by Lender shall not create any interest in or lien upon the Premises underlying the System Assets or the interest of the City therein and shall expressly disclaim the creation of such an interest or a lien.

**Section 19.3 Lender Cure Rights Upon System Owner Default.**

Upon an Event of Default by System Owner, the City shall deliver to each Lender of which it has notice a copy of any notice of default delivered under Section 13.1. Following the receipt by any Lender of any notice that System Owner is in default in its obligations under this Agreement, such Lender shall have the right but not the obligation to cure any such default, and the City agrees to accept any cure tendered by the Lenders on behalf of System Owner in accordance with the following: (a) a Lender shall have the same period after receipt of a notice of default to remedy an Event of Default by System Owner, or cause the same to be remedied, as is given to System Owner after System Owner's receipt of a notice of default hereunder. The Lender shall have the absolute right to substitute itself or an affiliate for System Owner and perform the duties of System Owner hereunder for purposes of curing such Event of Default. the City solely expressly consents to such substitution, and authorizes the Lender, its affiliates (or either of their employees, agents, representatives or contractors) to enter upon the Premises to complete such performance with all of the rights and privileges of System Owner, but subject to the terms and conditions of this Agreement.

**ARTICLE 20**  
**MISCELLANEOUS**

**Section 20.1 Governing Law; Jurisdiction; Dispute Resolution; Waiver of Jury Trial**

**Section 20.1.1 Governing Law.**

The rights and duties arising under this Agreement shall be governed by the laws of the State of Illinois. Venue for any action arising out or due to this Agreement shall be in Cook County, Illinois. The City shall not enter into binding arbitration to resolve any dispute under this Agreement. The City does not waive tort immunity by entering into this Agreement.

**Section 20.1.2 Jurisdiction.**

Subject to Section 20.1.4 below, the Parties hereby consent and submit to the personal jurisdiction of the Circuit Court of Cook County, Illinois.

**Section 20.2 Notices.**

Any written notice, direction, instruction, request or other communication required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be delivered to the Party to whom notice is to be given (a) personally, (b) by electronic mail (receipt acknowledgment), (c) by a recognized overnight delivery service or (d) by first class registered or certified mail, return receipt requested, postage prepaid (with additional notice by regular mail), and addressed to the to the Party to whom notice is to be given at the address stated below its name below, or at the most recent address specified by written notice given to the other Party in the manner provided in this Section 20.2.

**Section 20.3 Independent Contractor.**

System Owner's status shall be that of an independent contractor and not that of a servant, agent, or employee of the City. The System Owner shall not hold itself out, nor claim to be acting, as a servant, agent or employee of the City. System Owner is not authorized to, and shall not, make or undertake any agreement, understanding, waiver or representation on behalf of the City. System Owner shall at its own expense comply with all applicable workers compensation, unemployment insurance, employer's liability, tax withholding, minimum wage and hour, and other federal, state, county and municipal laws, ordinances, rules, regulations and orders. System Owner shall require its employees to observe the working hours, rules, security regulations and holiday schedules of the City, including but not limited to all policies and work rules applicable to the City employees while on the City property such as the Workplace Harassment Policy; COVID-19 Vaccination Policy; and Drug and Alcohol Policy.

System Owner agrees to abide by the Occupational Safety & Health Act of 1970 (OSHA), and as the same may be amended from time to time, applicable state and municipal safety and health laws and all regulations pursuant thereto. System Owner shall certify that its agents, employees and subcontractors are in compliance with the City work rules applicable to the City employees

while on the City property. Failure to certify or violation of work rules is subject to the Default provisions of this Agreement.

**Section 20.4 Conflict of Interest.**

System Owner represents and warrants that no prior or present services provided by System Owner to third parties conflict with the interests of the City in respect to the Services being provided hereunder except as shall have been expressly disclosed in writing by System Owner to the City and consented to in writing to the City.

**Section 20.5 Ownership of Documents and Other Materials.**

All originals, duplicates and negatives of all plans, drawings, reports, photographs, charts, programs, models, specimens, specifications, AutoCAD Version 2023, Excel spreadsheets, PDF, and other documents or materials required to be furnished by System Owner hereunder, including drafts and reproduction copies thereof, shall be and remain the exclusive property of the City, and the City shall have the unlimited right to publish and use all or any part of the same without payment of any additional royalty, charge, or other compensation to System Owner. Upon the termination of this Agreement, or upon request of the City, during any stage of the Services, System Owner shall promptly deliver all such materials to the City. System Owner shall not publish, transfer, license or, except in connection with carrying out obligations under this Agreement, use or reuse all or any part of such reports and other documents, including working pages, without the prior written approval of the City, provided, however, that System Owner may retain copies of the same for System Owner's own general reference.

**Section 20.6 Right to Audit.**

System Owner shall for a period of three years following performance of the Services, keep and make available for the inspection, examination and audit by the City or the City's authorized employees, agents or representatives, at all reasonable time, all records respecting the services and expenses incurred by System Owner, including without limitation, all book, accounts, memoranda, receipts, ledgers, canceled checks, and any other documents indicating, documenting, verifying or substantiating the cost and appropriateness of any and all expenses. If any invoice submitted by System Owner is found to have been overstated, System Owner shall provide the City an immediate refund of the overpayment together with interest at the

highest rate permitted by applicable law, and shall reimburse all of the City's expenses for and in connection with the audit respecting such invoice.

**Section 20.7 Confidentiality.**

In connection with this Agreement, the City may provide System Owner with information to enable System Owner to render the Services hereunder, or System Owner may develop confidential information for the City. System Owner agrees

(1) to treat, and to obligate System Owner's employees to treat, as secret and confidential all such information whether or not identified by the City as confidential,

(2) not to disclose any such information or make available any reports, recommendations and /or conclusions which System Owner may make for the City to any person, proposer or corporation or use the same in any manner whatsoever without first obtaining the City's written approval, and

(3) not to disclose to the City any information obtained by System Owner on a confidential basis from any third party unless System Owner shall have first received written permission from such third party to disclose such information.

Pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/7(2), records in the possession of others whom the City has contracted with to perform a governmental function are covered by the Act and subject to disclosure within limited statutory timeframes (five (5) working days with a possible five (5) working day extension). Upon notification from the City that it has received a Freedom of Information Act request that calls for records within the System Owner's control, the System Owner shall promptly provide all requested records to the City so that the City may comply with the request within the required timeframe. The City and the System Owner shall cooperate to determine what records are subject to such a request and whether or not any exemption to the disclosure of such records or part thereof is applicable. System Owner shall indemnify and defend the City from and against all claims arising from the City's exceptions to disclosing certain records which System Owner may designate as proprietary or confidential. Compliance by the City with an opinion or a directive from the Illinois Public Access Counselor or the Attorney General under FOIA, or with a decision or order of Court with jurisdiction over the City, shall not be a violation of this Section.

**Section 20.8 Use of the City's Name or Picture of Property.**



System Owner shall not in the course of performance of this Agreement or thereafter use or permit the use of the City's name nor the name of any affiliate of the City, nor any picture of or reference to its Services in any advertising, promotional or other materials prepared by or on behalf of System Owner, nor disclose or transmit the same to any other party.

If to **SYSTEM OWNER**:

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

Title:

[\_\_\_\_\_  
\_\_\_\_\_]

With a copy to System  
Owner's legal  
representative:

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

Title:

[\_\_\_\_\_  
\_\_\_\_\_]

If to the City:

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

Title:

[\_\_\_\_\_  
\_\_\_\_\_]

With a copy to the City's  
legal representative:

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

[\_\_\_\_\_  
\_\_\_\_\_]

Title:

[\_\_\_\_\_  
\_\_\_\_\_]

**Section 20.3 Amendments.**

No amendments or modifications of this Agreement shall be valid unless evidenced in writing and signed by duly authorized representatives of both System Owner and the City or their respective successors in interest.

**Section 20.4 Records.**

Each Party hereto shall keep complete and accurate records of its operations hereunder for a minimum of five (5) years and shall maintain such data as may be necessary to determine with reasonable accuracy any item relevant to this Agreement. Each Party shall have the right to examine, at its sole cost, all such records insofar as may be necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of costs relating to transactions hereunder.

**Section 20.5 Attorney's Fees.**

In the event that the City commences any action, suit, or other proceeding to remedy, prevent, or obtain relief from a breach of this Agreement by System Owner, or arising out of a breach of this Agreement by System Owner, the City shall recover from the System Owner as part of the judgment against System Owner, its attorneys' fees and costs incurred in each and every such action, suit, or other proceeding.

**Section 20.6 Severability.**

In the event that any provision of this Agreement should be held void, or unenforceable, the remaining portions hereof shall remain in full force and effect.

**Section 20.7 Counterpart Execution.**

The Parties may execute this Agreement in counterparts, which shall, in the aggregate, when signed by both Parties constitute one and the same instrument; and, thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. A fax or scanned transmission of a signature page shall be considered an original signature page. At the request of a Party, a Party shall confirm its faxed or scanned signature page by delivering an original signature page to the requesting Party.

**Section 20.8 Service Agreement.**

The Parties intend that this Agreement be treated as a "service contract" within the meaning of Section 7701(e) of the Internal Revenue Code.

**Section 20.9 Headings.**

The headings in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the clauses to which they pertain.

**Section 20.10 No Waiver.**

Any failure or delay by the City to enforce the provisions of this Agreement shall in no way constitute a waiver by the City of any contractual right hereunder, unless such waiver is in writing and signed by the City.

**Section 20.11 Survival.**

Any provisions necessary to give effect to the intent of the Parties hereunder after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement, including but not limited to Section 20.1, Section 20.12 and Article 16.

**Section 20.12 Marketing and Confidential Information.**

**Section 20.12.1**

The Parties agree and acknowledge that each Party may promote the installation and use of the System by any means. All public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Green Attributes and Environmental Financial Incentives, and any related reporting rights.

**Section 20.12.2**

Each Party shall provide to the other Party, in advance of distribution to any Person, a copy of any marketing or promotional material related to the System.

**Section 20.12.3**

The City agrees that this Agreement and its performance by both Parties are proprietary and confidential to System Owner. Without the prior written consent of System Owner, the City shall not share information provided by System Owner to the City from the Meter, or any other performance data related to the System with any third parties. the City shall not disclose to any third parties the terms of this Agreement or costs incurred by either Party under this Agreement without System Owner's prior written consent.

**Section 20.12.4**

If required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated by a court, governmental agency or authority having jurisdiction over a Party, that Party may release such confidential information, or a portion thereof, to the court, governmental agency or authority, as required by applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose such confidential information to accountants in connection with audits. Notwithstanding the foregoing, System Owner acknowledges that the City is a public entity subject to certain public records disclosure statutes and regulations. System Owner further acknowledges that although the Illinois Freedom of Information Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that System Owner provides

as confidential is a trade secret. If a request is made for information marked “Confidential”, “Trade Secret” or “Proprietary”, the City will provide the System Owner with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

**Section 20.13 No Confidentiality Regarding Tax Structure or Treatment.**

Notwithstanding anything to the contrary set forth herein or in any other agreement to which the Parties are parties or by which they are bound, the obligations of confidentiality contained herein and therein, as they relate to the transaction, shall not apply to the U.S. federal tax structure or U.S. federal tax treatment of the transaction, and each Party (and any employee, representative, or agent of any Party hereto) may disclose to any and all Persons, without limitation of any kind, the U.S. federal tax structure and U.S. federal tax treatment of the transaction. The preceding sentence is intended to cause the transaction not to be treated as having been offered under conditions of confidentiality for purposes of Section 1.6011-4(b)(3) (or any successor provision) of the Treasury Regulations promulgated under Section 6011 of the Code and shall be construed in a manner consistent with such purpose. In addition, each Party acknowledges that it has no proprietary or exclusive rights to the tax structure of the transaction or any tax matter or tax idea related to the transaction.

**Section 20.14 Integration.**

This Agreement, together with Exhibits \_\_\_\_\_, sets forth all the covenants, conditions and promises between the parties with regard to the subject matter set forth herein. There are no covenants, promises, agreements, conditions or understandings between the parties, either oral or written, other than those contained in this Agreement. This Agreement has been negotiated and entered into by each party with the opportunity to consult with its counsel regarding the terms therein. No portion of the Agreement shall be construed against a party due to the fact that one party drafted that particular portion as the rule of *contra proferentem* shall not apply.

In the event of any inconsistency between this Agreement, and any Exhibits, this Agreement shall control over the Exhibits. In no event shall any proposal or contract form submitted by System Owner be part of this Agreement unless agreed to in a writing signed by both parties and attached and referred to herein as an Addendum, and in such event, only the portions of such proposal or contract form consistent with this Agreement and Exhibits hereto shall be part hereof.

**Section 20.15 Time.**

System Owner agrees all time limits provided in this Agreement and any Addenda or Exhibits hereto are of essence to this Agreement. System Owner shall continue to perform its

obligations while any dispute concerning the Agreement is being resolved, unless otherwise directed by the City.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the duly authorized representatives of each of the Parties have executed this [Solar Energy Power Purchase and Sale Agreement / Solar Energy Services Agreement], effective as of the Effective Date.

**The City:**

**SYSTEM OWNER:**

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

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

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

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

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

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

**EXHIBIT A**  
**Description of the Premises**

[To be inserted.]

**EXHIBIT A-1**  
**Description and Depiction of the Site**

[To be inserted.]



**EXHIBIT B**  
**Description of the System**

[To be inserted.]

**EXHIBIT C**  
**Solar Electricity Price Schedule**

Alternative 1: The Solar Electricity Price with respect to each System under the Agreement shall be as follows:

<b>Year of Term</b>	<b>kWh Rate[*] (\$/kWh)</b>	<b>Year of Term</b>	<b>\$/kWh Rate[*] (\$/kWh)</b>
<b>1</b>		<b>11</b>	
<b>2</b>		<b>12</b>	
<b>3</b>		<b>13</b>	
<b>4</b>		<b>14</b>	
<b>5</b>		<b>15</b>	
<b>6</b>		<b>16</b>	
<b>7</b>		<b>17</b>	
<b>8</b>		<b>18</b>	
<b>9</b>		<b>19</b>	
<b>10</b>		<b>20</b>	

Calculated based on Base Contract Price multiplied by \_\_\_% inflation factor for each year.

Alternative 2: For any year of this Agreement, the Solar Electricity Price payable by the City is the sum of Sections 1 and 2 below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation). For the period prior to the first anniversary of the Commercial Operation Date, the amount in Section 2 below shall be \$\_\_\_.

- D.** Cost of Electricity, per kWh, pursuant to this Agreement, for the period (a) from the date of the first delivery by System Owner to the City of Electricity from the System (b) to,

but excluding, the first anniversary of the Commercial Operation Date: \$ \_\_\_\_\_/ kWh (“Base Contract Price”).

- E.** Annual escalation (expressed as a fixed percentage increase from the prior year’s Solar Electricity Price) applicable as of each anniversary date of the Commercial Operation Date for the following year to, but not including, the next succeeding anniversary of such Commercial Operation Date: [ \_\_\_\_\_ ] percent ( \_\_ %).
  - This escalation factor commences on the first anniversary of the Commercial Operation Date, and ends at the end of the Term, unless further adjusted in accordance with the terms of any Extension Period pursuant to this Agreement.
- F.** The Parties further agree to the following:
  - Although the percentage of escalation is fixed in Section 2, since it is based on the prior year’s Solar Electricity Price, which is itself increasing on an annual basis, the actual dollar amount of each year’s escalation increases.
  - The Solar Electricity Price may be further escalated for any increase in taxes assessed or levied against the System Assets, which taxes shall be imposed by or on behalf of the City.

## **EXHIBIT D**

### **Electric Funds Transfer Instructions**

Each monthly invoice shall contain:

1. the time period for the electricity deliveries to the City;
2. the quantity of electricity delivered during the time period;
3. the rate for the electricity delivered including any green attributes if relevant; and
4. the total amount due and the payment instructions. In addition, there will be contact information for any questions that might arise.

# Registering for DemandStar



We are pleased to announce our membership in the DemandStar network. DemandStar is an online marketplace that connects our suppliers directly to the bids, quotes and RFPs that matter to them.

DemandStar is open and accessible to all businesses and provides instant access to our solicitations. By registering for your complimentary DemandStar account, you will receive:

- **Instant** access to bids, quotes and RFPs
- **Automatic** notifications, right to you inbox, of bids that match the commodity codes you select
- The ability to **quickly view** the contractual terms and scope of work
- All the **forms and documents** you need in one place
- Access to **more government bids** in neighboring cities, counties and states

**It's EASY!** Get started with these 3 easy steps!

## 1 REGISTER

Go to:

<https://www.demandstar.com/registration>

### Create an Account with DemandStar

You are one step away from picking your free government agency

Email Address

Company Name

I accept the DemandStar [Terms of Use](#) and [Privacy Policy](#)

Next



## 2 CHOOSE YOUR FREE AGENCY

Type in the name of the government agency you'd like to add, for example "City of Metropolis" in the Search Box

## 3 CHECK OUT

Check out with your **FREE AGENCY** Registration by clicking "Skip for now" on the page where it gives you options to add additional counties and States

### ← Choose Your Free Agency

Receive full access to the government agency of your choice and receive advance notifications of new opportunities.

City of Metropolis ✕

Narrow down your search by selecting a state and county.

<b>State</b>	<b>County</b>
Select State ▼	Select County ▼

- City of Metropolis – Board of Commisioners
- City of Metropolis Purchasing
- Metropolis Technical College

You have chosen **Metropolis Technical College** as your free agency.  
Add additional government agencies below for \$25 per County,  
Statewide and National subscriptions available.

My Subscriptions  [0]

**Nation (0)**

**States (0)**

**Counties (0)**

		Your Current Rate
<b>Total</b>	(0 subscriptions)	<b>\$0/year</b>

**Proceed to Checkout**

**Skip for Now**

**SIGN UP**

Visit [www.demandstar.com](http://www.demandstar.com)





# DEMANDSTAR

**B u i l d i n g C o m m u n i t i e s .**

(E-bidding) Electronic Bidding Instructions

# Introduction

To submit a bid electronically (e-bidding) on DemandStar

- The project **MUST** be setup for e-bidding by the government agency advertising the opportunity



Bid Identifier	Agency Name	Bid Status	Broadcast Date	Date Due ▼	Name	Actions
RFP-2019-01-0-2019/df	Town of Malabar	Active	5/15/2019	5/31/2019	Malabar Parks and Recreation Board Memorial Wall Project	Planholders, Download/Order, Details
EBID-20190077-0-2019/HF	City of Port St. Lucie, Procurement Management Department	Active	4/25/2019	5/31/2019	Purchase Breaching "Backpack" Gas Masks and Gas Mask Cartridges for the Police Department JAG Grant Funded	E-Bidding, Planholders, Download/Order, Details



## How to check if it is an e-bidding opportunity

- Not all opportunities posted on DemandStar by government are available for e-bidding
- Those that are available for you to electronically bid will list "e-bidding" as an available "ACTION" when you look at the project details

In order to do  
e-bidding

1. Click on “E-bidding” in  
the actions column

Bid Identifier	Agency Name	Bid Status	Broadcast Date	Date Due ▼	Name	Actions
RFP-2019-01-0-2019/df	Town of Malabar	Active	5/15/2019	5/31/2019	Malabar Parks and Recreation Board Memorial Wall Project	Planholders, Download/Order, Details
EBID-20190077-0-2019/HF	City of Port St. Lucie, Procurement Management Department	Active	4/25/2019	5/31/2019	Purchase Breaching “Backpa Gas Masks and Gas Mask Cartridges for the Police Department JAG Grant Funded	E-Bidding, Planholders, Download/Order, Details



In order to do  
e-bidding

2. Enter your contact information and enter in all required fields

Note: You **MUST** put a number of the “BID AMOUNT” box. However, that number can be 0 so as to allow for a more detailed description of your bid through your uploaded documents.

## Contact Information

*\*indicates required fields*

Company Name \*

Address 1 \*

Address 2

City \*


State \*

Postal Code \*

Phone \*

Fax

Country \*

 Bid Amount \*

Alternate Bid Amount

Notes

# In order to do e-bidding

- In the agency required documents section – check the documents you intend on uploading and fulfilling. By checking these boxes this is **ONLY** an acknowledgement of how you will fulfill the requirement. You still have to upload the documents.

## Required Documents



The following documents are required by the agency for this project. Please select which documents you will be submitting electronically (online) and which ones you will submit directly to the agency (offline).

### Agency Required Documents

Document	None	Online/ Electronic	Offline/ Manual	Not submitting
-	⚠	✓	📄	•
<a href="#">Bid Reply</a>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<a href="#">Checklist</a>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<a href="#">Subcontractor List</a>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<a href="#">Current Workload, List of Projects and Completion Dates</a>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<a href="#">Questionnaire</a>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<a href="#">Drug Free Workplace Form</a>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In order to do e-bidding

Upload your response documents in an accepted file format

Make sure that you have covered and uploaded all the required documents

### E-Bid Response Documents

Agency Name	City of Port St. Lucie, Procurement Management Department
Bid Number	EBID-20190077-0-2019/HF
Bid Name	Purchase Breaching "Backpack" Kits, Gas Masks and Gas Mask Cartridges for the Police Department JAG Grant Funded
Bid Due Date	5/31/2019 3:00:00 PM Eastern time
Bid Opening	14 days, 21 hours, 45 minutes, 5 seconds

*No response documents uploaded*

### Agency Accepted File Formats



Formats

Adobe Acrobat (\*.PDF )  
Microsoft Excel (\*.XLS )  
Microsoft Excel (\*.XLSX)  
Microsoft PowerPoint (\*.PPT )  
Microsoft Word (\*.DOC )  
Microsoft Word (\*.DOCX)

### Upload Electronic Documents

*\* indicates required fields*



Document Title \*

Specify Upload Document \*

Choose File No file chosen

(Type the path of the document, or click the Browse button.)


Upload

In order to do e-bidding

Once you decide you've uploaded all your documents that you would like to submit, make sure you click the **NEXT** button at the bottom of the screen

### E-Bid Response Documents

Agency Name City of Port St. Lucie, Procurement Management Department  
Bid Number EBID-20180218-0-2018/jer  
Bid Name Sculpture on Lawn at City Hall Temporary Art Installation  
Bid Due Date 1/9/2019 2:00:00 PM Eastern time  
Bid Opening 100 days, 1 hour, 20 minutes, 11 seconds

	Document Title	Format	Size	Uploaded	Status	Action
1	 E-Bidding for Suppliers	Microsoft Word	12 Kb	10/1/2018 9:39:50 AM	Complete	<a href="#">View</a> , <a href="#">Remove</a>

### Agency Accepted File Formats

Formats  
Adobe Acrobat (\*.PDF)  
Microsoft Excel (\*.XLS)  
Microsoft Excel (\*.XLSX)  
Microsoft PowerPoint (\*.PPT)  
Microsoft Word (\*.DOC)  
Microsoft Word (\*.DOCX)

### Upload Electronic Documents

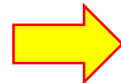
\* indicates required fields

Document Title \*

Specify Upload Document \*

(Type the path of the document, or click the Browse button.)

Your document has successfully uploaded but your response is not yet complete. You must still click 'Submit Response' on Bid Response Details page in order to complete your response and receive a confirmation



# Completing your e-bid submittal

- Please **VERIFY** that you have attached **ALL** the required documents
- Click on the **Submit Response** button to complete your e-bid

## Agency Required Documents

EDIT

1. **Bid Reply** (Electronic/Online) ✓
2. **Checklist** (Electronic/Online) ✓
3. **Subcontractor List** (Electronic/Online) ✓
4. **Current Workload, List of Projects and Completion Dates** (Electronic/Online) ✓
5. **Questionnaire** (Electronic/Online) ✓
6. **Drug Free Workplace Form** (Electronic/Online) ✓
7. **Current Certificate of Insurance** (Electronic/Online) ✓
8. **License/Certification to do Described Work** (Electronic/Online) ✓
9. **Reference Check Form** (Electronic/Online) ✓
10. **E-Bid Reply Excel Spreadsheet** (Electronic/Online) ✓
11. **E-Bid Bond** (Electronic/Online) ✓
12. **Vendor Code of Ethics** (Electronic/Online) ✓
13. **W-9 form** (Electronic/Online) ✓

## Uploaded Documents

EDIT

1. test document upload to ensure e-bidding active

### E-Bid Confirmation

After clicking "Submit Response" the following process will begin:

- We will verify that your response is complete as entered.
- You will see a confirmation page with your confirmation number and date/time stamp of your upload.
- You will receive a confirmation e-mail indicating a successful response submittal.
- You may track your response submission under the View Responses page.

If you do not receive any of the above, please call Supplier Services at (206) 940-0305.

<< Return

Submit Response

## Confirmation of Response

- When you complete you will receive a confirmation
- This is a confirmation that what you uploaded will be visible to the agency when the bid closes, **this is not** a confirmation that all your documents were fill out or submitted correctly

### E-Bid Response Details

Agency Name City of Port St. Lucie, Procurement Management Department

Bid Number EBID-20180218-0-2018/er

Bid Name **Sculpture on Lawn at City Hall Temporary Art Installation**

Bid Due Date 1/9/2019 2:00:00 PM Eastern time

Bid Opening 100 days, 1 hour, 6 minutes, 46 seconds

Response # 15104

**Results** Your bid response is submitted.

<< Return



# Post Submission Edits

If you feel like you missed something or need to make a change you can go back to your submittal response and edit your e-bid. By clicking on “DETAILS” then “EDIT” the section you wish

Bid Identifier	Agency Name	Bid Status	Broadcast	Date Due ▼	Name	Status	Actions
EBID-20190077-0-2019/HF	City of Port St. Lucie, Procurement Management Department	Active	4/25/2019	5/31/2019	Purchase Breaching “Backpack” Kits, Gas Masks and Gas Mask Cartridges for the Police Department JAG Grant Funded	Incomplete	<a href="#">Details, Bid, History</a>

## Contact Information

**EDIT**

**Company Name** Sample DBE Company  
**Address 1** 509 Olive Way  
**Address 2**  
**City** Seattle  
**State** Washington  
**Postal Code** 98101  
**Phone** 2063739233  
**Fax** 2063739233  
**Country** United States of America  
**Bid Amount** \$0.00  
**Alternate Bid Amount**  
**Notes**



## Agency Required Documents

**EDIT**

1. Bid Reply (Electronic/Online) ✓



## DemandStar E-Bidding: Frequently Asked Questions

- Do suppliers need to be registered with DemandStar to participate in e-bidding?  
Yes. But if they don't already have an account with DemandStar, they can sign up and either
  - Be a subscriber for only your agency, at no charge, and be able to download documents at no charge and then receive notifications that match their commodity codes
  - Be a "basic supplier" for free - who researches on our platform and then pays \$5 to download all documents, thus becoming a plan holder
  - Be a paid subscriber for a county, state, national and receive notifications from all included agencies
- Can suppliers respond with document uploads or do they simply fill in forms?  
Yes, they may respond with document uploads that are available to you via the DemandStar platform.
- What type of E-Bidding Documents can be uploaded?  
Acceptable file formats for sending back documents that the city will accept:

### E-Bidding Documents

<b>Document Types</b>	Bidding Documents - Exhibits Pricing Bid Bond
<b>File Formats</b>	Adobe Acrobat (*.PDF ) Microsoft Excel (*.XLS ) Microsoft Excel (*.XLSX) Microsoft PowerPoint (*.PPTX) Microsoft PowerPoint (*.PPT ) ZIP Compressed Archive (*.ZIP )

- Is there a maximum file size that I can upload?  
Vendors can simply upload a single file or multiple documents as long as it doesn't exceed 100 MBs (single or multiple files)
- After a bid opening, what document(s) are made public by DemandStar?  
None. Only the agency can see the vendor responses so you are the only ones who will determine what you want to download and make public.
- Who do I call if I have questions or problems with the DemandStar?  
The City strongly encourages each respondent to setup their account and to explore the eBidding module at least a couple of days before the bid due date.

If you have questions or issues creating your account, accessing the eBidding module or submitting your bid prior to the bid due date, please contact DemandStar at 866.273.1863 or by email at [hello@demandstar.com](mailto:hello@demandstar.com).

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