

# **CITY OF NEW ORLEANS**



## **REQUEST FOR QUALIFICATIONS**

**FOR**

**A/E Services for the Agriculture Street Landfill  
Redevelopment**

**RFQ NO. 3892**

**RELEASE DATE: March 28, 2024**

**SUBMISSION DEADLINE: May 1, 2024, at 4:00 PM**

# **KEY REMINDERS TO PROSPECTIVE RESPONDENTS**

- 1. READ THE SOLICITATION IN ITS ENTIRETY.**
- 2. CONTACT THE DESIGNATED PURCHASING OFFICIAL ONLY.**
- 3. CHECK THE SUPPLIER PORTAL PERIODICALLY.**
- 4. TAKE ADVANTAGE OF THE QUESTION AND ANSWER PERIOD.**
- 5. PROVIDE COMPLETE ANSWERS AND DESCRIPTIONS.**
- 6. REVIEW THE RFQ AND YOUR RESPONSE BEFORE SUBMITTING.**
- 7. SUBMIT YOUR PROPOSAL ON TIME.**

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## SECTION 1 – DEFINITIONS

“*BRASS*” means Budget, Requisition, and Accounting Services System.

“*City*” means the City of New Orleans.

“*Close Event*” means the date and time at which BRASS prohibits Respondents from submitting a response to the solicitation.

“*DBE*” means Disadvantage Business Enterprise.

“*Event*” means the solicitation (RFQ, RFP, ITB, ITQ) that the Bureau of Purchasing created to release it on the Supplier Portal of BRASS.

“*OSD*” means the City’s Office of Supplier Diversity.

“*Open Event*” means the date and time at which the Event is released to the public in the Supplier Portal of BRASS.

“*Purchasing Conference Room*” means the room adjacent to the Bureau of Purchasing located on the 4<sup>th</sup> floor of City Hall at 1300 Perdido Street, New Orleans, Louisiana 70112.

“*Respondent*”, “*Respondents*” or “*a respondent*” means a person or entity who responds to the RFQ.

“*RFQ*” means the present request for qualification.

“*SBE*” means Small Business

Enterprise as defined by the U.S. Small Business Administration.

“*SLDBE*” means State and Local Disadvantage Business Enterprise.

## SECTION 2 – OVERVIEW

### 2.1 Introduction

The Mayor’s Office of Resilience and Sustainability works with city departments and agencies to advise on the strategic pursuit of comprehensive resilience priorities across environmental, social, economic, and infrastructural improvement goals. The Agriculture Street Landfill (ASL) is a soon to be City-owned property upon which the City is planning to build the City’s first Community Solar Park.

### 2.2 Background

The ASL opened in 1909 on 95 acres of undeveloped swampland to dispose of the City of New Orleans’ municipal solid waste. Through a mix of buried heavy metals, trash fires, and chemical spraying, the landfill was contaminated with more than 152 toxic and hazardous materials. ASL was closed in 1966 and then redeveloped by CNO and Housing Authority of New Orleans (HANO) in the 1970’s into the Gordon Plaza and Press Park single family residential neighborhoods, an affordable housing community for the elderly, and the former Robert R. Moton Elementary School.

Following a sewerage leak in 1993, complaints from numerous residents and activists lead to the Environmental Protection Agency’s (EPA) testing and designating the Gordon Plaza Subdivision as a Superfund Site in 1994. Following this designation, the

CNO and EPA has invested in remediation actions at the site; and defended itself against class action lawsuits brought against the CNO, HANO, Orleans Parish School Board (OPSB), and liability insurers to recover for negligence in converting the municipal landfill into a residential area. In 2008 a Consent Decree with the EPA outlined CNO's responsibility to maintain the site in perpetuity.

CNO is currently acquiring property a top the former landfill, including some of the single family homes in the Gordon Plaza Subdivision.

### **2.3 Purpose**

The City seeks proposals from qualified firms with environmental and solar farm experience to support the City in engineering tasks necessary to bring the community solar park to fruition.

### **2.4 Statement of Needs**

You must refer to Attachment A.

### **2.5 Performance Evaluation**

The City will memorialize performance evaluation criteria in the executed contract.

## **SECTION 3 – DBE**

### **3.1 In General**

The requirements of the City's DBE Program apply to the RFQ.

See section of the RFQ on Attachments for more information and the applicable form(s).

### **3.2 DBE Goal**

A DBE contract goal of 35 percent has been established for this RFQ.

### **3.3 DBE Interest**

The Bureau of Purchasing and OSD seek to offer the opportunity to DBE and SLDBE, SBEs, and other certified minority, women, disabled veteran owned businesses to submit their interest in participating to the RFQ as a prospective subcontractor to a respondent or to jointly propose as a prospective partner with a respondent, or both.

DBE and other certified diversity entities must complete a questionnaire to express their interest. Follow the below link to submit your interest:

- <https://forms.office.com/Pages/ResponsePage.aspx?id=hfTLCLccAkqalQ3ZtFuf90s12RkxNB5KnaGW8hYN33NUQlo4WkhHWE5YQ1ICQjZHUUZBOEhMMzg1UC4u>

If a pre-submittal conference is scheduled, OSD will present the results of the questionnaire for the RFQ during the conference.

**IMPORTANT:** Submit your interest on or before the deadline identified under Section 4.1. Otherwise, OSD will not be able to present it during the pre-submittal conference.

The Bureau of Purchasing will post said results via an addendum to the RFQ following the said conference or, in the absence of a conference, several days after the deadline identified under Section 4.1.

### **3.4 DBE Opportunities**

The City expects Respondents to ensure that every effort is made to meet DBE utilization goals.

OSD offers the opportunity to Respondents to submit subcontracting opportunities on its DBE Opportunities Page. Said page can be found at:

- <https://www.nola.gov/economic-development/supplier-diversity/opportunities/>

### **3.5 Point of Contact**

You shall direct questions related to DBE compliance prior to the Submission Deadline to:

- By email: [Supplierdiversity@nola.gov](mailto:Supplierdiversity@nola.gov)
- In writing or in-person: Office of Supplier Diversity  
1340 Poydras Street, Suite 1800,  
New Orleans, LA 70112

## **SECTION 4 – ANTICIPATED TIMETABLE**

### **4.1 Dates**

Release/Open Event (Cone of Silence Begins)	3/28/2024
Deadline for DBE Interest	4/4/2024
Pre-Submittal Conference	4/17/2024 at 1:30 PM
Deadline for Submitting Questions	4/22/2024
Submission Deadline/Close Event	5/1/2024 at 4:00 PM
Evaluation by Selection Committee	On or about 5/14/2024
Notification	Within 1 to 2 business days from the date of the evaluation

### **4.2 Meetings**

The pre-submittal conference meeting and the selection committee meeting are public meetings. The Bureau of Purchasing encourages Respondents to attend said meetings.

### **4.3 City Calendar**

The Bureau of Purchasing posts the dates and times of the public meetings connected to the RFQ on the calendar of the City.

The Bureau of Purchasing encourages Respondents to subscribe to the calendar.

The City calendar can be found at:

- [Calendar - City of New Orleans \(nola.gov\)](#) .

### **4.4 Selection Committee Meeting**

The Bureau of Purchasing makes every effort to maintain the above date of the selection committee meeting.

However, from time to time, the Bureau of Purchasing may need to reschedule the said meeting for reasons which include, but not limited to, request(s) from committee member(s) to have additional time for review, an unexpected calendar conflict of one or more committee member, an unforeseen emergency, etc.

#### **4.5 Questions**

You must submit substantive questions to the Designated Purchasing Official via the “Q & A Forum” in the Event no later than the deadline set forth in Section 4.1

The Bureau of Purchasing does not guarantee that your question(s) submitted via email to the Designated Purchasing Official will be answered.

The Designated Purchasing Official will issue a response to questions by written addendum to the RFQ.

Your question(s) submitted after the deadline may not be reviewed for inclusion in an addendum to the RFQ.

The Designated Purchasing Official will not respond to substantive questions submitted verbally either by telephone or in person or both outside of the scheduled meetings.

#### **4.6 Cone of Silence**

From the release of the RFQ until the award, there is a prohibition on communication by respondents (or anyone on their behalf) with the City’s staff, the mayor and staff, council members and staff, members of the selection committee members and elected officials.

The Bureau of Purchasing calls this prohibition the “Cone of Silence.”

This does not apply to oral communications at pre-submittal conferences, oral presentations before selection committees, contract negotiations, or communications in writing at any time with any city employee or elected official regarding matters not concerning this RFQ.

In those instances, in which a Prospective Respondent is also an incumbent contractor, the City’s staff and the incumbent contractor may contact each other with respect to the existing contract only.

Under no circumstances may the City’s staff and the incumbent contractor and/or its representative(s) discuss the RFQ.

**BREAKING THE CONE OF SILENCE, IF PROVEN, MAY RESULT IN A DISQUALIFICATION OF YOUR RESPONSE.**

## **SECTION 5 – RESPONSIVENESS AND SELECTION COMMITTEE**

### **5.1 Responsiveness**

Following the submission deadline, the Designated Purchasing Official will:

- Opens the timely submitted proposals, and then
- Reviews and determines if the respondent completed and submitted the required forms.

You are invited to read Section 8.7 for failure to comply with the deadline or the required documents.

If there are responsive respondents, the Designated Purchasing Official will provide a copy of the proposals to the selection committee.

### **5.2 Selection Committee – Composition**

The Chief Procurement Officer must establish selection committees with relevant subject-matter expertise in reviewing and evaluating responses to the RFQ.

As per the applicable executive order, the selection committee will consist of the following individuals:

- The Chief Administrative Officer, or designee,
- The Chief Financial Officer, or designee,
- The manager of the User Entity requesting the service, or designee,
- The employee who will manage and monitor the contract, and
- A professional from within local government who possesses expertise in the relevant field.

### **5.3 Selection Committee – Grading**

The members on the selection committee shall either complete the numerical grading or use the wholly qualitative evaluation criteria.

### **5.4 Selection Committee – Non-Voting Member**

The Selection Committee, through a majority vote, may add one non-voting member to the committee who has expertise in the relevant field.

## **SECTION 6 – EVALUATION**

### **6.1 In General**

The selection committee will evaluate responses based on the technical criteria established under this section.

You may receive the maximum points, a portion of this score, or no points at all, depending upon the merit of your response, as judged by the selection committee in accordance with the technical criteria.

During the review of any submission at any time (including in the event of a shortlist), the selection committee may:

- Conduct reference checks relevant to the solicitation to verify all information, and rely on or consider any relevant information from such cited references or from any other sources in the evaluation of the submissions,
- Seek clarification of a submission or additional information from any or all respondents and consider same in the evaluation of submissions,
- Waive any requests or requirements if such waiver is in the best interest of the City, and
- Request interviews/presentations with any, some or all respondents to clarify any questions or considerations based on the information included in submission.



## 6.2 **Technical Criteria for the RFQ**

The Selection Committee will use the following criteria to evaluate the proposals submitted by Respondents:

### **1. Experience and Competence: 0 – 30 Points**

Specialized experience and technical competence working on brownfield or superfund sites. Relevant qualifications and experience of the firm and individual staff in providing services like the scope of services described above.

### **2. Performance: 0 – 25 Points**

Performance history, including, without limitation, competency, responsiveness, cost control, work quality and the ability to meet schedules and deadlines. Experience working on (community) solar farm development and operational plans/needs.

### **3. Client Service Plan: 0 – 30 Points**

Structure and soundness of the representation and the proposed client service plan.

### **4. DBE 0 – 15 Points**

You will see below a table with additional information on this criterion.

POINTS	DESCRIPTION	POINT AWARD	AWARDING GUIDELINES
3pts may be awarded	<b>DBE Goal:</b> Proposal complies with contract DBE participation goal or will conduct good faith efforts to do so.	3pts	<ul style="list-style-type: none"><li>• Meets or exceeds the stated contract DBE goal or demonstrates why and how the respondent can only achieve a lower DBE goal</li></ul>
		2pts	<ul style="list-style-type: none"><li>• States they will meet a lower contract goal without demonstrating why or how.</li></ul>
		1pts	<ul style="list-style-type: none"><li>• No commitment - 0%, but demonstrates why &amp; how DBE participation is not achievable.</li></ul>
		0pts	<ul style="list-style-type: none"><li>• No commitment -0% without explanation.</li></ul>

6pts may be awarded	<b>Quality of Proposal:</b> Proposal submitted a quality DBE Participation Plan that includes innovative strategies and approaches to achieve and maintain compliance over the contract term and that builds capacity in the DBE community.	+2pts   +1pts  +2pts   +1pts	<ul style="list-style-type: none"> <li>• Prime has identified scopes of work to be performed by DBE firm(s) to be used that represent a Commercially Useful Function.</li> <li>• Prime has clearly identified DBE firm(s) and their scopes of work.</li> <li>• The DBE has contributed directly to the Proposal (Resumes, Experience Portfolio, etc.).</li> <li>• Prime has identified ways to support the DBE (e.g.: Mentor-protégé relationship, bonding, early payments, etc.).</li> </ul>
6pts is default award; points may be deducted	<b>Past Performance Issues:</b> Includes firm's past performance on meeting DBE goals, technical assistance and supportive services designed to increase participation and build capacity in the DBE community.	Up to 6 points may be deducted.	Points shall be deducted for the following reasons: <ul style="list-style-type: none"> <li>• Prime has a history of not meeting their committed DBE goal.</li> <li>• Prime has history of switching DBEs or reduces work committed to DBEs.</li> <li>• Prime is inconsistent with reporting requirements of the DBE policy.</li> <li>• Prime does not cooperate with OSD on-site monitoring.</li> <li>• Prime has history of not paying their DBE subs in a timely manner.</li> </ul>

			<ul style="list-style-type: none"> <li>• Prime has a history of insufficient GFEs.</li> </ul>
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## SECTION 7 – NOTIFICATION AND CONTRACT

### 7.1 **Notification**

Once the selection committee recommends a proposal, the Bureau of Purchasing notifies the selected firm by an intent to award letter. The unsuccessful firm(s) will be notified as well.

The Designated Purchasing Official will also award the Event in BRASS which only represents an administrative function.

The intent to award letter will contain the name and contact information of the representative of the department responsible for administering the future contract.

IMPORTANT: The intent to award letter is not a contract award notification. The contract award is subject to the successful satisfaction by the selected respondent of all additional requirements in the solicitation.

### 7.2 **Composite Scoring Sheet**

In addition to the notification, the Designated Purchasing Official will post an electronic copy of the sheet on the website of the Bureau of Purchasing under “RFP/Rfq Composite Scoring Sheets.”

The Bureau of Purchasing keeps a sheet available for public view for 30 days from the date of the selection committee meeting.

You can find the composite scoring sheets on the following webpage:

- <https://nola.gov/view-rfp-rfq-composite-scoring-sheets/>

After 30 days, any interested party must submit a request for public records to the City’s Attorney Office to obtain a copy of the tabulation.

You can submit your request at <https://www.nola.gov/city-attorney/public-records-requests/>.

### 7.3 **Negotiation and Execution of Contract**

After the issuance of the intent to award letter, the City may negotiate the final contract with the selected respondent.

Irrespective of the occurrence of contractual negotiations or not, the selected respondent must provide the representative of the department responsible for administering the future contract with required documentation (examples: tax clearance form, proof of signing authority, proof of good standing with the State of Louisiana, etc.).

The City Attorney’s Office is responsible for presenting the successful respondent with a proposed written contract to execute.

Once executed by the City, the department responsible for the administration of the contract can authorize the beginning of the services.

The City will publish a copy of the fully executed contract on the City’s Supplier Portal.

#### **7.4 Contract Administration**

The executed contract with the selected firm identifies the department responsible for administering it.

Said department will be notably responsible for monitoring the performance of the contractor.

#### **7.5 Contract Amendment and/or Time Extension**

##### **7.5.1 DBE Compliance**

Prior to amending and/or extending the contract for time with the contracted firm, said firm must be compliant with its committed DBE plan.

Failure to comply can constitute cause for termination of the contract.

##### **7.5.2 Performance Evaluation**

Prior to amending and/or extending the contract for time with the contracted firm, said firm must perform in accordance with the scope of work set forth in the contract.

Failure to comply can constitute cause for termination of the contract.

### **SECTION 8 – SUBMISSION**

#### **8.1 In General**

You may respond to this RFQ:

- By responding to the Event in BRASS (preferred method).
- Or by submitting a physical copy to the Bureau of Purchasing in person or by courier.

##### **8.1.1 Submission In Person or by Courier**

If you choose to submit a physical copy of your response, your sealed envelope must:

- a. Be addressed to the Designated Purchasing Official (see Section 8.2 for the contact information)
- b. Be marked with “[name of respondent] – RFQ [number of present RFQ] – Technical Proposal”.
- c. Contain one printed signed hardcopy of the technical proposal.

##### **8.1.2 Submission In BRASS**

**This is the preferred method to submit your response.**

If you choose to submit your proposal in response to the Event via BRASS, you must submit in PDF format the following document:

- Technical Proposal
  - Entitle the PDF as follows: “[name of respondent] - RFQ [number of present RFQ] – Technical Proposal”, and

See Section 8.3 for their respective contents.

**NOTE:** If you encounter a problem submitting your response by in person, by courier or in the BRASS system, you must notify the Designated Purchasing Official immediately and coordinate with said official for an alternative method of submission (by email).

You must obtain written approval from the said official prior to submitting your response via an alternative method.

The City will not accept qualifications submitted by fax.

## **8.2 Designated Purchasing Official**

You must direct response, correspondence, and other communications regarding the RFQ to the following Designated Purchasing Official:

- Title (Mr., Mrs., Ms.), First and Last Name: Haley Slocum
- Email address: haley.slocum@nola.gov
- Office Telephone Number: 504-658-1510
- For in-person or mailing: Attn: Haley Slocum  
City of New Orleans  
Bureau of Purchasing  
1300 Perdido Street, Suite 4W07,  
New Orleans, Louisiana 70112.

## **8.3 Contents**

The City requires that the submission be organized in the manner specified below to achieve a uniform review process and obtain the maximum degree of comparability.

The below table also serve the purpose of a checklist to ensure that you attach the necessary documents. You do not need to incorporate this checklist with your submission.

<b>Tabs</b>	<b>Contents</b>	<b>Attach? Y or N</b>
<b>TECHNICAL PROPOSAL</b>		
Cover Letter	Show the RFQ number and subject, the name of your firm, address, email address, telephone number(s), name of contact person and date.	
Table of Contents	Include a clear identification of the material by tab and by page number.	
Consultant's Profile and Submittal Letter	Submittal Letter signed by and authorized agent of the respondent.  A proposal statement setting forth in detail how the proposal meets the proposal requirements and evaluation factors.  Organizational structure and locations of business with ownership interests.	

Experience and Competence	Specialized experience and technical competence working on brownfield or superfund sites. Relevant qualifications and experience of the firm and individual staff in providing services like the scope of services described above.	
Performance	Performance history, including, without limitation, competency, responsiveness, cost control, work quality and the ability to meet schedules and deadlines. Experience working on (community) solar farm development and operational plans/needs.	
Client Service Plan	Structure and soundness of the representation and the proposed client service plan.	
DBE	Attach the applicable DBE form(s) provided under Attachment B to the RFQ.	
Responsibility	Attach your response to the questionnaire provided under Attachment D to the RFQ.	
References	Provide at least 2 entity references (preferably governmental entity) for which the firm has performed similar work of the same or similar magnitude to those requested in this solicitation, including the contact's name, entity, address, telephone number, e-mail address, and dollar amount and term of the contract.  At least 2 letters of reference from previous clients are also required.	
Insurance	Attach evidence of required insurance in the amounts indicated.  If available, a properly completed ACORD Form is preferable.	
Addenda	Include a statement on company letterhead that you reviewed the addenda (include number and date of the addendum) issued by the City for this RFQ.	
Exceptions	Include any/all exceptions taken to the content of solicitation itself or any contract or legal agreement(s) or document(s) related to the solicitation.  Any exceptions shall be reviewed by City for appropriateness and is only valid if accepted in writing by City.	
Litigation	Provide all judgments entered into against the respondent by any Federal, State, or Local	

	Courts within the past 10 years; any criminal conviction ever issued against the respondent or its owners or principals, and all civil, criminal, and administrative proceedings pending against the Prospective Consultant at this time.	
Forms	Attach any other forms listed under Section 11.2.	

#### **8.4 Receipt**

#### **THE DESIGNATED PURCHASING OFFICIAL MUST RECEIVE YOUR RESPONSE BEFORE THE DEADLINE INDICATED UNDER SECTION 4.1.**

The City will NOT accept submissions received/delivered after the deadline.

The City will not credit delivery claims not clearly documented by original receipt.

#### **8.5 Time Stamp in Person, by Courier or BRASS**

If you intend to submit a response in BRASS, the time stamp of receipt is generated by BRASS.

Note that BRASS prohibits any submission on and after the date and time the RFQ closes.

If you intend to submit a physical response, the date and time of receipt by the Designated Purchasing Official constitutes the time stamp of receipt.

The date and time of the delivery claimed by the courier does NOT constitute proof of receipt without documented proof of delivery.

#### **IMPORTANT:**

- The Bureau of Purchasing encourages Respondents submitting a response via BRASS to submit the response at least 3 hours before the deadline set forth in the RFQ.
- The Bureau of Purchasing encourages Respondents submitting a physical copy via a courier to request proof of delivery from said courier.
- The Bureau of Purchasing encourages Respondents to confirm with the Designated Purchasing Official that the response was received timely. If there is a high volume of submissions, the confirmation may take 1 or 2 business days.

#### **8.6 Alternative Method of Submission**

An alternative method of submission can be approved by email to the Designated Purchasing Official.

If the Designated Purchasing Official approves an alternative method of submission, Respondent remains responsible for ensuring that the proposal is received prior to the submission deadline.

Note that the date and time the email is received by the Designated Purchasing Official constitutes the time stamp of receipt.

The date and time the email was sent by Respondent does NOT constitute a proof of receipt.

Failure to meet the submission deadline, irrespective of the mode of delivery, shall result in the rejection of the proposal.

### **8.7 Failing to Comply**

The Designated Purchasing Official will notify Respondent in writing that the proposal is non-responsive if:

- Respondent failed to submit it timely, or
- Respondent failed to complete and submit a form or document provided and required by the City.

The Designated Purchasing Official will not distribute a non-responsive proposal to the selection committee.

Respondent will have 2 business days from the date of notification by the Designated Purchasing Official to appeal the decision of non-responsiveness.

Non-responsive respondent must submit the appeal to the Chief Procurement Officer via email with the number of the RFQ and a detailed explanation.

The decision from the Chief Procurement Officer or designee will be final.

Failure to submit the appeal timely waives the right to obtain a decision from the Chief Procurement Officer or designee.

### **8.8 Disclaimer**

Respondents are hereby advised that due to the nature of the internet, the City cannot guarantee that access to BRASS will be uninterrupted or that emails or other electronic transmissions will be sent to you or received by us.

The City is not responsible for any delays caused by the internet or any other means of submission chosen by Respondent or both.

## **SECTION 9 – GENERAL INFORMATION**

### **9.1 Legal Authority**

City Charter Section 6-308(5)(b) and Executive Order LC 20-01 authorize the City to issue a request for proposals to interested and qualified firms.

### **9.2 Ownership**

Your response and/or documentation submitted therewith are city property for all purposes.

### **9.3 Effect**

The RFQ and any related discussions or evaluations by anyone create no rights or obligations whatsoever.

The City is not responsible for submissions and/or presentation costs.

The City may cancel or modify this solicitation at any time at will, with or without notice.

Anything to the contrary notwithstanding, the contract executed by the City and a qualified firm, if any, is the exclusive statement of rights and obligations extending from the RFQ and the request for proposal connected with the contract.



#### **9.4 Addendum**

The Designated Purchasing Official posts addendum on the supplier portal of BRASS under the RFQ. A copy of the addendum is saved in the “Attachment” tab of the event for the RFQ.

Respondents shall not rely on any representation, statement, or explanation other than those made in this RFQ or in any addendums issued.

Where there appears to be a conflict between the RFQ and any addendum issued, the last addendum issued will prevail.

#### **9.5 Agree to Contract Terms and Conditions**

By responding to this RFQ, you agree to the City’s required Contract Terms and Conditions set forth in this solicitation and therefore waives any future right to contest the required provisions.

#### **9.6 Protest**

The City’s protest policy applies to this solicitation.

The policy is available at: <https://www.nola.gov/getattachment/Purchasing/Forms/No-130-Procurement-Protest-Policy.pdf/> .

#### **9.7 Debriefing**

Respondent who was not qualified can request a post-award debriefing.

The debriefing shall not include point-by-point comparisons of the debriefed respondent’s submission with the awarded or selected respondent(s).

The unsuccessful respondent must submit a request in writing to the Designated Purchasing Official within 15 calendar days from the date of the notification issued by the Bureau of Purchasing.

The Bureau of Purchasing will ensure that the debriefing is conducted within a reasonable time.

#### **9.8 Code of Ethics**

The City adheres to the Louisiana Code of Governmental Ethics, contained in the Louisiana Revised Statutes Annotated, R.S. 42:1101, *et seq.*

By submitting a qualification submission, prospective respondents warrant that there is no “conflict of interest” related to this solicitation that would violate applicable Louisiana Law.

Violation of the Louisiana Code of Governmental Ethics may result in rescission of contract, permit or licenses, and the imposition of fines and/or penalties, without contractual liability to the public in accordance with applicable law.

#### **9.9 BRASS**

The City launched BRASS in July 2019. BRASS replaces the legacy databases and is used by all City departments.

BRASS enables suppliers to register and to maintain information about their organization for the purpose of doing business with the City and receive notifications of business opportunities.

Registration is free. The City invites prospective suppliers to learn more at <https://nola.gov/purchasing/brass/>.

#### **9.10 Direct Deposit Electronic Payment Program**

The City will require that the successful firm enrolls in its direct deposit electronic payment program.

Instead of receiving paper checks, payments will be made electronically via Automated Clearing House ("ACH") and deposited directly into an account designated by the qualified respondent at its financial institution.

Enrolling in direct deposit payments supports the City's ongoing efforts to become a more efficient and effective government, deliver enhanced services and timely payments, and provide for a sustainable environment.

ACH payment will apply to the invoice that you submit through the City's Supplier Portal **AFTER** the Bureaus of Purchasing AND Treasury have completed the ACH activation. The activation process may take 4 to 10 calendar days.

#### **9.11 Waiver of Administrative Informalities**

The City shall reserve the right, at its sole discretion, to waive administrative informalities contained in any submission.

#### **9.12 Errors and Omissions in Submission**

The City reserves the right to seek clarification of any submission for the purpose of identifying and eliminating irregularities or informalities.

#### **9.13 Familiarity with Laws**

You shall familiarize yourself with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over the solicitation.

These laws and/or ordinance will be deemed to be included in the contract, the same as though herein written in full.

#### **9.14 Sample Agreement**

The City supplies a sample professional services agreement on the website of the Bureau of Purchasing at: <https://nola.gov/next/purchasing/topics/policies,-procedures,-forms-and-templates/>.

The selected respondent(s) shall be expected to execute a contract that is substantially the same as the sample agreement.

You shall not submit your own standard contract terms and conditions as a response to this RFQ.

#### **9.15 Federal Contract Provisions**

If the City uses or intends to use federal funds (for example: ARPA, FEMA, HUD, etc.) to pay for the services rendered by the selected respondent, you will be required to comply with the federal contract provisions attached to the RFQ and/or the signed contract.

#### **9.16 Organizational Conflicts of Interest**

As per Section 9.8, the City is required to comply with all state and local laws that govern conflict of interest.

When a project is partly funded by grants administered by a Federal agency, the City must also comply with Federal procurement standards codified in 2 C.F.R. Part 200 (Uniform Rules) for that portion of the project utilizing Federal Funds.

2 C.F.R. § 200.318 requires the non-Federal entity (the City) to maintain written standards of conduct covering conflict of interest, including Organizational Conflict Of Interest (OCOI).

An OCOI means that because of other activities or relationships with other persons or entities, a person or entity:

1. Is unable or potentially unable to render impartial assistance or advice to the City;  
or
2. Is or might be otherwise impaired in its objectivity in performing the contract work;  
or
3. Has an unfair competitive advantage.

Disclosure, evaluation, neutralization, and management of these conflicts and of the appearance of conflicts, is in the interests of the public, the City, and the business community.

You are therefore encouraged to investigate and manage any potential OCOI well in advance of forming teams or considering participation with or as a prospective respondent on a solicitation.

For this RFQ, you are required to:

1. EITHER certify that you conducted an internal review prior to submitting a proposal and that you do not have any organizational conflict of interest (you must then complete and submit Attachment C-1);
2. OR disclose all relevant facts concerning any past, present, or currently planned interests, activities, or relationships which may present an organizational conflict of interest (you must then complete and submit Attachment C-2).

If you submit an Organizational Conflict of Interest Disclosure and Avoidance/Neutralization/Mitigation Plan (Attachment C-2), the Designated Purchasing Official will ask the sponsoring department to review and make a recommendation on whether the identified conflict precludes your proposal from being submitted to the selection committee.

The City reserves the right to require revisions to the avoidance/neutralization/mitigation plan that you submitted.

If the sponsoring department recommends disqualifying your proposal, the Designated Purchasing Official will notify you in writing that you are disqualified from further participation.

You will have 2 business days from the date of notification by the Designated Purchasing Official to appeal the decision of disqualification.

You must submit the appeal to the Chief Procurement Officer via email with the number of the RFQ and a detailed explanation.

The decision from the Chief Procurement Officer or designee will be final.

Failure to submit the appeal timely waives the right to obtain a decision from the Chief Procurement Officer or designee.

You shall also refer to Section 8.7 when a prospective respondent fails to comply with the requirements of this section.

#### **9.17 Determination of Responsibility**

The City seeks to select a responsible respondent who:

- Has adequate financial resources for performance or can obtain such resources as required during performance.
- Has the necessary experience, organization, technical qualifications, skills, and facilities, or can obtain them.
- Can comply with the proposed or required time of delivery or performance schedule.
- Has a satisfactory record of integrity, judgment, and performance.
- Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

You must ensure that your proposal contains sufficient information for the City to make its determination by presenting acceptable evidence of the above to perform the contracted services.

#### **9.18 Confidential Information, Trade Secrets, and Proprietary Information**

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of the proposal. The financial proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

For the purposes of this procurement, the provisions of the Louisiana Public Records Act (La. R.S. 44.1 et. seq.) shall be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection.

You are reminded that while trade secrets and other proprietary information you submit in conjunction with this procurement may not be subject to public disclosure, you must claim such protections at the time of submission of your technical proposal. You should refer to the Louisiana Public Records Act for further clarification.

The City will not credit any blanket exemption claims lacking specific justification.

You shall clearly designate the part of the proposal that contains a trade secret and/or privileged or confidential proprietary information as “confidential” to claim protection, if any, from disclosure.

You shall mark the cover sheet of the proposal with the following legend, specifying the specific section(s) of the proposal sought to be restricted in accordance with the conditions of the legend:

*“The data contained in pages \_\_\_\_ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Respondent as a result of or in connection with the submission of this proposal, the City of New Orleans shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit the City of New Orleans’s right to use or disclose data obtained from any source, including the Respondent, without restrictions.”*

Further, to protect such data, each page containing such data shall be specifically identified and marked “CONFIDENTIAL”.

You must be prepared to defend the reasons why the material should be held confidential. By submitting a proposal with data, information, or material designated as containing trade secrets and/or privileged or confidential proprietary information, or otherwise designated as “confidential”, you agree to indemnify and defend (including attorney’s fees) the City and hold the City harmless against all actions or court proceedings that may ensue which seek to order the City to disclose the information.

The City reserves the right to make any proposal, including proprietary information contained therein, available to city personnel for the sole purpose of assisting the City in its evaluation of the proposal. The City shall require said individuals to protect the confidentiality of any specifically identified proprietary information or privileged business information obtained as a result of their participation in these evaluations.

Additionally, any proposal that fails to follow this section and/or La. R.S. 44:3.2.(D)(1) shall have failed to properly assert the designation of trade secrets and/or privileged or confidential proprietary information and the information may be considered public records.

## **SECTION 10 – STATEMENT OF NO RESPONSE**

If you elected not to respond to the RFQ, the Bureau of Purchasing is interested in learning the reason(s) for non-response.

Your response to the below questionnaire will help the City understanding potential challenges and/or barriers with the RFQ.

- <https://forms.office.com/Pages/ResponsePage.aspx?id=hfTLCLccAkqalQ3ZtFuf90s12RkxNB5KnaGW8hYN33NUMjZBN05YS1U0UVY4N0tXOFdEMEVBHQTFXNi4u>

## **SECTION 11 – ATTACHMENTS**

### **11.1. Document to Review**

- Attachment A – Statement of Needs

### **11.2. Required to Submit with Proposal In Response to RFQ**

- Attachment B – DBE Compliance Form-3
- Attachment C – Conflict of Interest
  - C1 - Organizational Conflict of Interest Disclosure Certification
  - C2 - Organizational Conflict of Interest Disclosure and Avoidance/Neutralization/Mitigation Plan
- Attachment D – Responsibility Questionnaire

### **11.3. *Contract Terms and Conditions and Insurance***

- Attachment E - Insurance Requirements
- Attachment F – City Contract Terms and Conditions

**[ATTACHMENTS A THRU F ON FOLLOWING PAGES]**

## **SECTION 11.1.**

**THE FOLLOWING DOCUMENT IS FOR REVIEW  
ONLY**

**ATTACHMENT NO. A  
CITY OF NEW ORLEANS  
STATEMENT OF NEEDS AND PRICE PROPOSAL**

**Part 1 - Statement of Needs**

The selected firm will work with City Staff to provide engineering consulting services which may include:

1. Develop and oversee a soil management plan to guide the City's selected construction contractor as the properties in the Gordon Plaza neighborhood and directly atop the Agriculture Street Landfill are demolished and nine properties undergo soil excavation to 2' to remove lead contaminated soil. The plan should include testing and instructions on how frequently samples should be taken during excavation, especially at sites that are to be remediated as part of this project. The plan will be reviewed and approved by the Environmental Protection Agency Project Manager in addition to City staff.

The AE will develop a final report to document the removal and proper disposal of lead contaminated soils at the nine properties.

2. Develop and oversee a Tree Maintenance Plan designed to protect the Landfill Cap and eliminate any trees growing out of the landfill. The plan should ensure the cap maintains its integrity and future growth is stunted for the duration of the remedy.
3. Develop a plan for and oversee operations which include safely demolishing the Moton School in the Desire Neighborhood. The City is in preliminary discussions with Orleans Parish School Board to acquire this property. The demolition plan will be reviewed and approved by the Environmental Protection Agency Project Manager in addition to City staff.
4. Perform construction administration and resident inspection during construction/demolition of each of the tasks above. Currently the City estimates demolishing nearly 70 properties in the Desire neighborhood including the Moton School.
5. Participate in planning meetings, conference calls and consultations with City staff during development of future project scopes of work related to safe implementation of the Agriculture Street Community Solar Park. Perform other related engineering services as requested by City Staff to facilitate safe implementation of the Agriculture Street Community Solar Park. This may include design of sub-station electrical stations that house battery backup power for the future community solar park.

**MINIMUM QUALIFICATIONS**

Environmental Engineering Services. The primary firm should have direct experience implementing ground mounted solar parks/fields, experience implementing community solar parks developed atop landfills that have established caps which cannot be punctured and/or experience redeveloping brownfield/superfund sites.



Respondent must certify that there are no ethical or legal conflicts which would adversely affect the City.

## **PERFORMANCE**

- The selected firm will be expected to comply with the Louisiana Rules of Professional Responsibility regarding client communication obligations and all other obligations to the City. The selected respondent will be expected to comply with the City's billing requirements and guidelines.
- The selected firm will be expected to return the City's phone calls and/or emails communication within 24 hours.
- The City and the selected firm will develop mutually agreed upon deadlines for specific deliverables or technical assistance as appropriate.
- The selected firm's failure to meet mutually agreed upon task-specific deadlines may result in 5% penalty discount on the subsequent invoice.
- The selected firm will be subject to monitoring by the contract monitor.
- If it is determined that an individual or firm has misrepresented themselves and is not competent to perform the task this will result in a termination of the contract.
- Termination may also be for serious misconduct, habitual neglect of duty or incompetence, or willful disobedience of the City's orders.

**[ATTACHMENTS B THRU F ON FOLLOWING PAGES]**

**[The remainder of the page is intentionally left blank]**

## **SECTION 11.2.**

### **THE FOLLOWING DOCUMENTS MUST BE COMPLETED AND SUBMITTED WITH RESPONSE**

#### **INSTRUCTIONS:**

- Documents must be signed by an authorized representative of the entity or it will not be accepted.
- For Affidavits: the document must be notarized, or it will not be accepted.
- For Affidavits: Affiant **MUST** select when required or the affidavit will not be accepted.

*Instructions sheet may be omitted when submitting the affidavit.*

**ATTACHMENT B**  
**CITY OF NEW ORLEANS**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS**

**I - DBE PROGRAM COMPLIANCE**

The requirements of the City of New Orleans ("City") Disadvantaged Business Enterprise ("DBE") Program apply to this Agreement. It is the policy of the City to practice nondiscrimination based on social and economic disadvantage, race, color, gender, disability and national origin in the award and performance of contracts.

In consideration of this policy and pursuant to Division 2 of Article IV of Chapter 70 of the Code of the City, the City enacted the DBE Program for all City contracts.

Contractor agree to use its best efforts to fully and completely carry out the applicable requirements of the City's DBE Program in the award and administration of this Agreement, including without limitation, all reporting requirements and established DBE participation percentage. The Contractor's failure to carry out these requirements, as determined in good faith by the City's Office of Supplier Diversity ("OSD"), shall be deemed a material breach of this Agreement. This material breach may result in the termination of this Agreement and/or the pursuit of any other remedies available to the City under any applicable law, ordinance, or rule, including, but not limited to those set forth in the City's Policy Memorandum for the DBE Program

**II - DBE CONTRACT GOAL**

The requested DBE Contract Goal is listed in the contract section of the invitation to bid.

NOTE: All non-public works contracts have a default goal of 35% DBE participation.

Participation shall be counted toward meeting the contract goal based on the following:

1. Only business entities certified as SLDBE or LAUCP-DBE are counted toward the contract DBE participation goal.
2. The Bidder/Proposer may count only the total dollar value of the subcontract awarded to certified DBE subcontractor/supplier(s) toward the contract goal.
3. A Bidder/Proposer can count 100 % of the DBE's participation provided that the DBE has committed to performing at least 51% of the work with its own forces.
4. Bidder/Proposer may count 100 % of DBE Manufacturer Supplier's participation and 60 % of DBE Non-Manufacturer supplier's participation toward its contract goal.
5. When the Bidder/Proposer is in a joint venture with one or more DBE business entities, the OSD, after reviewing the joint venture agreement, shall determine the percent of participation that will be counted toward the contract goal.

6. Bidder/Proposer may count toward its contract goal only those DBE subcontractors/suppliers performing a Commercially Useful Function.

“DBE Commercially Useful Function means” a discrete task or group of tasks, the responsibility for performance of which shall be discharged by the DBE firm by using its own forces or by actively supervising on-site the execution of the tasks by another entity for whose work the DBE firm is responsible. In determining whether a certified firm is performing a commercially useful function, factors including, but not limited to, the following shall be considered:

- a. Whether the business entity has the skill and expertise to perform the work for which it is being utilized and possesses all necessary licenses;
- b. Whether the firm is in the business of performing, managing, or supervising the work for which it has been certified and is being utilized;
- c. Whether the DBE subcontractor is performing a real and actual service that is a distinct and verifiable element of the work called for in a contract.
- d. Whether the DBE subcontractor performed at least thirty percent (30%) of the cost of the subcontract (including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own forces.

### **III - DBE DIRECTORY**

Contractors may only utilize certified SLDBE and/or Louisiana Unified Certification Program (LAUCP) DBE firms from the following lists to meet the City’s DBE Program goals.

- a. Contractors agree to utilize the City’s SLDBE directory of certified firms as a first source when searching for certified DBE business entities. The SLDBE directory includes entities certified through Sewerage and Water Board of New Orleans, New Orleans Aviation Board and Harrah’s New Orleans. The SLDBE directory is available at [www.nola.gov](http://www.nola.gov).
- b. The Louisiana Unified Certification Program (“LA UCP”) directory is available at [www.dotd.louisiana.gov](http://www.dotd.louisiana.gov).

Information on locating these directories may also be requested from the OSD at [supplierdiversity@nola.gov](mailto:supplierdiversity@nola.gov).

### **IV - GOOD FAITH EFFORT POLICY**

In accordance with Sec.70-461 of the City Code, the City shall reject any bid and shall not award, enter into or amend any contract that is not supported by documentation establishing that the Bidder/Proposer has met the applicable contract DBE participation Goal or made Good Faith Efforts to the applicable contract DBE participation goal.

Good Faith Efforts are steps taken to achieve a contract DBE participation goal or other requirements which, by their scope, intensity and usefulness demonstrate the

Bidder's or Proposer's responsiveness to fulfilling the City's DBE Program goals prior to the award of a contract, as well as the Contractor's responsibility to put forth measures to meet or exceed the contract DBE participation goal throughout the duration of the contract.

The OSD shall be responsible for determining whether a Bidder/Proposer has made their best efforts to achieve the DBE Program contracting objectives. In making this determination, the DBE Compliance Officer shall consider the following factors:

**A. SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR:**

- i. Bidder/Proposer listed all selected scopes or portions of work to be performed by DBEs in order to increase the likelihood of meeting the contract goal for the project
- ii. Bidder/Proposer listed the estimated value of each scope or portions of work identified.

**B. NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES:**

- i. Bidder/Proposer contacted the OSD to request submission of subcontracting opportunities on the DBE Opportunities page.
- ii. Bidder/Proposer included a copy of each announcement or notification.

**C. INITIAL SOLICITATION & FOLLOW-UP:**

- i. Bidder/Proposer listed all certified DBE firms that received written notification of work items to be subcontracted and documented the certified firm's response.
- ii. Bidder/Proposer included copies of the written notice(s) sent to certified firms.

**D. NEGOTIATE IN GOOD FAITH:**

- i. Bidder/Proposer provided an explanation for any rejected DBE bid or price quotation.
- ii. Bidder/Proposer included a copy of the written rejection notice including the reason for rejection to the rejected DBE firm.

If a Bidder/Proposer fails to submit documented Good Faith Efforts as outlined, the bid shall be considered non-responsive.

The OSD may take into account the performance of other Bidders/Proposers in meeting the contract DBE participation goal and may, if deemed advisable, request further information, explanation or justification from any Bidder/Proposer. For example, Bidder's past performance on similar contracts with similar scopes and/or a Proposer's prior history utilizing DBEs will also be taken in consideration when determining Good Faith Efforts.

Good Faith Efforts shall be monitored throughout the life of the contract and evaluated on a case-by-case basis in making a determination whether a Bidder or Proposer is in compliance with the Good Faith Effort policy.

To obtain a copy of the Good Faith Effort Policy contact OSD at [supplierdiversity@nola.gov](mailto:supplierdiversity@nola.gov).

## **V - REQUIRED DBE FORMS for RFPs/RFQs**

### **Request for Proposals (“RFP”) / Request for Qualifications (“RFQs”):**

To ensure the full participation of DBE’s in all phases of the City’s procurement activities, all Proposers at time of proposal submission shall complete and submit a DBE Participation Plan.

- 1. DBE Participation Plan (Attachment “B”):** A completed DBE Participation Plan shall be considered a methodology on how the Proposer plans to meet the contract DBE participation goal if awarded the project.
  - a. If a DBE Participation Plan (Attachment “B”) is not submitted, it shall be determined that the Respondent was non-responsive to the DBE provisions and the proposal will not be evaluated by the selection committee.
- 2.** Within ten (10) days of the City’s issuance of the Notice to Award letter, the selected Proposer shall complete and submit a DBE Compliance Form-1: This form is used to establish your DBE commitment on a City Bid, RFP or solicitation response. The selected Proposer shall provide a list of all proposed DBE subcontractor(s).
  - a. If the amount of DBE participation committed on DBE Compliance Form-1 is less than the Contract Goal, the selected Proposer shall complete DBE Compliance Form-2: This form is used to document Good Faith Efforts when the amount of DBE participation committed on DBE Compliance Form-1 is less than the contract DBE participation goal. The selected proposer shall provide all required supporting documentation of demonstrated Good Faith Efforts as specified on DBE Compliance Form-2.

The OSD shall review the contents of all required DBE Compliance Forms and may, if deemed advisable, request further information, explanation or justification from any Bidder/Respondent. Thereafter, the Contractor shall be bound by the established percentage, as approved by the OSD.

## **VI - CONTRACTOR COOPERATION**

The Contractor shall:

- 1.** Designate an individual as the “DBE Liaison” who will monitor the Contractor’s DBE participation as well as document and maintain records of “Good Faith Efforts” with DBE subcontractors/suppliers (“DBE Entities”).
- 2.** Execute written contracts with DBE Entities that meet the applicable DBE goals.
  - a. The Contractor shall provide the DBE Compliance Officer (“DBECO”) with copies of said contracts within thirty (30) days from the date the Agreement is fully executed between the City and the Contractor.
  - b. The Contractor shall agree to promptly pay subcontractors, including DBE Entities, in accordance with law.

3. Establish and maintain the following records for review upon request by the OSD:

- a. Copies of written contracts with DBE Entities and purchase orders;
- b. Documentation of payments and other transactions with DBE Entities;
- c. Appropriate explanations of any changes or replacements of DBE Entities, which may include a record of "Post-Award Good Faith Efforts" for each certified firm that the Contractor does not use in accordance with the approved DBE participation submission;
- d. Any other records required by the OSD.

The Contractor is required to maintain such records for three (3) years after completion or closeout of the Agreement. Such records are necessary to determine compliance with their DBE obligations.

- 4. Post monthly payments and submit regular reports to the DBECO as required via the online "Contract Compliance Monitoring System" or other means approved by the OSD.
  - a. The Contractor shall submit the initial report outlining DBE participation within thirty (30) days from the date of notice to proceed (or equivalent document) issued by the City to the Contractor. Thereafter, "DBE Utilization" reports shall be due on or before the fifteenth (15<sup>th</sup>) day of each month until all DBE subcontracting work is completed.
  - b. Reports are required even when no activity has occurred in a monthly period.
  - c. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in DBE participation.
  - d. The Contractor may also be required to attach or upload copies of canceled checks or bank statements that identify payer, payee and amount of transfer to verify payment information as indicated on the form.
- 5. Conform to the established percentage as approved by the OSD.
  - a. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
  - b. No changes to the established percentage and DBE Entities submitted on DBE Compliance Form-1 shall be allowed without approval by the OSD.
  - c. The City will not adjust the contract for any increase in cost due to replacement of DBE Entities.

## **VII - POST-AWARD MODIFICATION**

The OSD may grant a post-award modification request if:

- a. for a reason beyond the Contractor's control, the Contractor is unable to use the certified DBE entity submitted on DBE Compliance Form-1 to perform the specified work. The Contractor must notify the OSD of the intent for removal and substitution of a certified DBE immediately upon determination of that the DBE submitted on Compliance Form -1 is unable to perform the specified work. In such case, the Contractor shall use and document "Good Faith Efforts" to find a similarly qualified and certified DBE entity to perform such specified work. The same criteria used for establishing "Good Faith Efforts" in maximizing the participation of DBE Entities prior to awarding the Agreement will also apply to the substitution of DBE subcontractors during the performance of the Agreement; or
- b. the Contractor reasonably believes that, due to a change of scope, execution of the work in accordance with the directions from the City is unlikely to meet the established percentage or terms. In such case, the Contractor shall use and document "Good Faith Efforts" to achieve a reasonable amount of DBE participation on the remaining work on the Agreement.

### **VIII - MONITORING DBE PARTICIPATION**

To ensure compliance with DBE requirements during the term of the Agreement, the DBECO will monitor the Contractor' use of DBE subcontractors/suppliers ("DBE Entities") through the following actions:

1. Job site visits;
2. Electronic payment tracking via the Contract Compliance Monitoring System or other means as approved by the OSD;
3. Routine audits of contract payments to all subcontractors;
4. Reviewing of records and reports; and/or
5. Interviews of selected personnel.

The DBECO may schedule inspections and on-site visits with or without prior notice to the Contractor or DBE Entities.

### **IX - FAILURE TO COMPLY**

If the DBECO determines in good faith that the Contractor failed to carry out the requirements of the DBE Program, such failure shall be deemed a material breach of this Agreement. This material breach may result in the termination of the Agreement and/or the pursuit of any other remedies available to the City under any applicable law, ordinance, or rule, including, but not limited to those set forth in the City's Policy Memorandum for the DBE Program.

**All DBE Compliance forms are maintained by the OSD and are subject to change.**

**Please contact the OSD at [supplierdiversity@nola.gov](mailto:supplierdiversity@nola.gov) to request a copy of all DBE referenced documents.**



**DBE COMPLIANCE FORM-3 IS ATTACHED SEPARATELY TO  
THIS RFQ ON THE SUPPLIER PORTAL**

**[ATTACHMENTS C THRU F ON FOLLOWING PAGES]**

**[The remainder of the page is intentionally left blank]**

## **ATTACHMENT C CONFLICT OF INTEREST**

### **INSTRUCTIONS:**

- **You are required to submit ONLY ONE FORM: either C1 or C2 with your response.**
- **DO NOT COMPLETE AND SUBMIT BOTH.**
- **If you did not identify a conflict, you must complete and submit Attachment C1.**
- **If you identified a conflict, you must complete and submit Attachment C2.**

*Instructions sheet may be omitted when submitting the affidavit*

**ATTACHMENT C1  
CITY OF NEW ORLEANS  
ORGANIZATIONAL CONFLICTS OF INTEREST CERTIFICATION**

STATE OF \_\_\_\_\_

COUNTY/PARISH OF \_\_\_\_\_

Before me, the undersigned authority, came and appeared (*first and last name*) \_\_\_\_\_  
\_\_\_\_\_, who, being first duly sworn, deposed, and said that:

1. He/She is the (*title*) \_\_\_\_\_ and  
authorized representative of (*name of respondent*) \_\_\_\_\_  
\_\_\_\_\_, hereafter called "Respondent."
2. The Respondent submits the attached proposal in response to City of New Orleans  
Solicitation No. \_\_\_\_\_.
3. The Respondent certifies that, prior to submitting the attached proposal, the Respondent  
conducted an internal review of its team, including the sub-contractor(s) listed in the  
proposal, for potential, real, or perceived Organizational Conflicts of Interest.
4. The Respondent further certifies that, to the best of its knowledge and belief except as  
otherwise disclosed, it does not have any organizational conflict of interest.

\_\_\_\_\_  
Respondent Representative Signature

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Address

Sworn to and subscribed before me, \_\_\_\_\_, Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public (signature)

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

Notary ID#/Bar Roll#: \_\_\_\_\_

**[ATTACHMENTS C2 THRU F ON FOLLOWING PAGES]**

**ATTACHMENT C2  
CITY OF NEW ORLEANS  
ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE AND  
AVOIDANCE/NEUTRALIZATION/MITIGATION PLAN**

STATE OF \_\_\_\_\_

COUNTY/PARISH OF \_\_\_\_\_

Before me, the undersigned authority, came and appeared (first and last name) \_\_\_\_\_  
\_\_\_\_\_, who, being first duly sworn, deposed, and said that:

1. He/She is the (*title*) \_\_\_\_\_ and  
authorized representative of (*name of respondent*) \_\_\_\_\_  
\_\_\_\_\_, hereafter called "Respondent."

2. The Respondent submits the attached proposal in response to City of New Orleans  
Solicitation No. \_\_\_\_\_.

3. The Respondent hereby confirms the following organizational conflict of interest:

a. Description of the OCOI

i. Name of Person or Firm Conflicted: \_\_\_\_\_  
\_\_\_\_\_

ii. Past/Current/Future Project Name and Scope of Work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

iii. Description of the Conflict of Interest: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Avoidance/Neutralization/Mitigation Plan



**ATTACHMENT D  
CITY OF NEW ORLEANS  
RESPONSIBILITY QUESTIONNAIRE**

If you choose to circle "N/A", you must provide a written explanation on a separate document and submit it with this questionnaire in your response.

## ATTACHMENT D – CITY OF NEW ORLEANS RESPONSIBILITY QUESTIONNAIRE

No.	Questions	Circle Answer
1.	Is your firm in good standing with the Louisiana Secretary of State or other state of incorporation (if your firm is incorporated in another state) at the time of submission of your response?	YES    NO N/A
2.	Have you or your firm's incorporation been cancelled, revoked, suspended, forfeited by the state of incorporation in the last 5 years?	YES    NO N/A
3.	Do you or your firm owe tax to the City of New Orleans?	YES    NO N/A
4.	Do you or your firm have adequate staffing resources to perform the work described in this RFQ?	YES    NO N/A
5.	Do you or your firm possess adequate insurance for the work described in this RFQ?	YES    NO N/A
6.	Have you or your firm been denied insurance coverage in the last 5 years?	YES    NO N/A
7.	Have you or your firm been terminated for cause from a contract with a public agency in the last 5 years?	YES    NO N/A
8.	Have you or your firm been declared non-responsible to or prevented from bidding or performing work or subcontract in the last 5 years?	YES    NO N/A
9.	Have you or your firm been debarred or suspended by the Federal Government or the State of Louisiana or the state where your firm is incorporated?	YES    NO N/A
10.	Is there a proceeding pending relating to your firm's responsibility, debarment, suspension, or qualification to receive a public contract?	YES    NO N/A
11.	Did you or someone from your firm colluded, conspired, connived, or agreed, directly, or indirectly with any other respondent, firm or person to submit a collusive or sham bid in connection with this RFQ?	YES    NO N/A
12.	Do you or your firm comply with the City's hiring requirements contained in the city code?	YES    NO N/A

This questionnaire was completed by:

\_\_\_\_\_  
First and Last Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**[ATTACHMENTS E THRU F ON FOLLOWING PAGES]**

## **SECTION 11.3.**

# **CONTRACT TERMS AND CONDITIONS AND INSURANCE**



## **ATTACHMENT E CITY OF NEW ORLEANS INSURANCE REQUIREMENTS**

Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:

### **Minimum Requirements:**

Workers' Compensation & Employers Liability Insurance in compliance with the Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$1,000,000.

Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.

Automobile Liability Insurance with a combined single limit of liability of not less than \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.

Professional (Errors & Omission) Liability - As professional services are required under the contract, insurance appropriate to the contractor's profession, with limits of liability of not less than \$2,000,000 per occurrence or claim / \$2,000,000 policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement.

Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Contractor must procure and evidence full extended reporting period (ERP) coverage.

Contractors shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage

Important: The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractor's obligations and/or Scope of Work.

**Additional Insured Status:** The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as “Additional Insureds” on the CGL policy with respect to liability arising out of the performance of this agreement, General liability insurance coverage can be provided in the form of an endorsement to the Contractors insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein or the Sub-contractor liability shall be covered by the Contractor. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and be delivered via U.S. Mail to (User Department Mailing Address), with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

The Additional Insured box shall be marked “Y” for Commercial General Liability coverage. The Subrogation Waiver Box must be marked “Y” for Workers Compensation/Employers Liability and Property.

**Primary Coverage:** For any claims related to this agreement, the Contractors insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractors coverage.

**Claims Made Policies:** If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Contractor must purchase “extended reporting” coverage for minimum of 3 years after the termination of this agreement.

**Waiver of Subrogation:** The Contractor and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this agreement.

**Notice of Cancellation:** Each insurance policy required above shall not be canceled, expire, or altered except without prior notice to the City of no less than 30 days.

**Acceptability of Insurers:** Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best’s rating of no less than A: VII, unless otherwise acceptable to the City.

**Notice:** The Contractor will provide the City’s Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: CEA) the following documents, within 10 calendar days of the City’s request:

Copies of all policies of insurance, including all policies, forms, and endorsements:

Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared

bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement.

Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

**[ATTACHMENT F ON FOLLOWING PAGES AND END OF SOLICITATION]**

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**ATTACHMENT F  
CITY OF NEW ORLEANS  
CITY CONTRACT TERMS AND CONDITIONS**

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**1. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE.**

The Contractor herein expressly agrees and acknowledges that it is an independent contractor as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood between the parties hereto, in entering into this Contract, that the City shall not be liable to the Contractor for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Worker's Compensation coverage.

**2. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE.**

The Contractor herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this Contract for hire as noted and defined in R.S. 23:1472 (E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this Contract, or agreement for hire, and in connection with unemployment compensation only, that:

- a. The Contractor has been and will be free from any control or direction by the City over the performance of the services covered by this contract; and
- b. Services to be performed by the Contractor are outside the normal course and scope of the City's usual business; and

- c. The Contractor has been independently engaged in performing the services listed herein prior to the date of this Contract.

Consequently, neither the Contractor nor anyone employed by the Contractor shall be considered an employee of the City for the purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the parties hereto.

- 3. ASSIGNABILITY.** The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same without prior written consent of the City.

- 4. AMENDMENT.** The Contract shall not be modified except by written amendment executed by duly authorized representatives of the parties.

**5. AUDIT AND INSPECTION:**

- a. The Contractor will submit to any City audit, inspection, and review and, at the City's request, will make available all documents relating or pertaining to this Contract maintained by or under the control of the Contractor, its employees, agents, assigns, successors and subcontractors, during normal business hours at the Contractor's office or place of business in Louisiana. If no such location is available, the Contractor will make the documents available at a time and location that is convenient for the City.

- b. The Contractor will abide by all provisions of City Code § 2-1120, including but not limited to City Code § 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the Contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

**6. CHOICE OF LAWS.** This Contract shall be construed and enforced in accordance with the laws of the State of Louisiana, without regard to its conflict of laws provisions.

**7. COMPLIANCE WITH CITY'S HIRING REQUIREMENTS - BAN THE BOX.**

**A.** The Contractor agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, Contractor must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary.

**B.** Failure to maintain compliance with the City's hiring requirements throughout the term of the Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. Upon learning of any such breach, the City will provide the Contractor notice of noncompliance and allow Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City may move to suspend payments to

Contractor, void the Agreement, or take any such legal action permitted by law or this Agreement.

**C.** This section will not apply to any agreements excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable and the remaining provisions of the Agreement will remain in full force and effect.

**D.** The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

**8. CONFLICT OF INTEREST.** In the interest of ensuring that efforts of the Contractor do not conflict with the interests of the City, and in recognition of the Contractor's responsibility to the City, the Contractor agrees to decline any offer of employment if its independent work on behalf of the City is likely to be adversely affected by the acceptance of such employment. The initial determination of such a possibility rests with the Contractor. It is incumbent upon the Contractor to notify the City and provide full disclosure of the possible effects of such employment on the Contractor's independent work in behalf of the City. Final decision on any disputed offers of other employment for the Contractor shall rest with the City.

**9. CONSTRUCTION OF AGREEMENT.** Neither party will be deemed to have drafted the Contract. The Contract has been reviewed by all parties and will be construed and interpreted according to the ordinary meaning of the words used so as to fairly

accomplish the purposes and intentions of all parties. No term of the Contract will be construed or resolved in favor of or against the City or the Contractor on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of the Contract are provided for convenience only and are not intended to have effect in the construction or interpretation of the Contract. Where appropriate, the singular includes the plural, and neutral words and words of any gender include the neutral and other gender.

**10. CONVICTED FELON STATEMENT.**

The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding five years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

**11. COST RECOVERY.**

In accordance with Section 2-8.1 of the Municipal Code entitled “Cost recovery in contracts, cooperative endeavor agreements, and grants,” to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.

**12. DECLARED DISASTER.**

**A. Declaration.** During the declaration of an emergency by federal, state, and/or local government, the Contractor shall provide support to the City on an as-needed and task-order-driven basis. Because of the uncertainty of the scale and/or type of emergency, the services to be provided by the Contractor will vary and may need to be adjusted as needs are identified. The Contractor may be requested to provide

a range of services. Said services may need to be rendered on a continual basis (24 hours / 7 days per week) during the declaration of an emergency.

**B. Task Order. Notification and Personnel.**

Prior or during the declaration of an emergency, the City will notify the Contractor via task order if the City requires the Contractor’s support. Upon activation by task order, the Contractor will provide the City with contact information of personnel assigned to the task order; and coordinate with the City to identify any personnel available to meet the City’s needs.

**C. Purchase Order.**

Once services are identified, the City will issue a purchase order to the Contractor. The City will issue a subsequent purchase order in case of additional needs for services, or may issue a modified purchase order if changes are made to the initial purchase order.

**D.** The Contractor will ensure that the City is provided with timely and accurate reports and other documentation, as requested.

**13. DISADVANTAGED BUSINESS ENTERPRISE (“DBE”) PROGRAM.**

**A. In General.** The Contractor agrees to abide by the City Code sections 70-496, *et seq.*, to use its best efforts to carry out all applicable requirements of the City’s DBE Program for the administration of this Agreement, as set forth in the City Code and any applicable rules adopted thereunder. The City’s Office of Supplier Diversity (“OSD”) oversees the DBE Program and assigns a DBE Compliance Officer (“DBECO”) to ensure compliance.

**B. Monitoring.** To ensure compliance with DBE requirements during the term of this Agreement, the DBECO will monitor the Contractor’s use

of DBE subcontractors/suppliers (“**DBE Entities**”) through the following actions:

1. Job site visits;
2. Electronic payment tracking via the Contract Compliance Monitoring System or other means as approved by the OSD;
3. Routine audits of contract payments to all subcontractors;
4. Reviewing of records and reports; and/or
5. Interviews of selected personnel.

The DBECO may schedule inspections and on-site visits with or without prior notice to the Contractor or DBE Entities.

**C. Cooperation.** The Contractor shall:

1. Designate an individual as the “DBE Liaison” who will monitor the Contractor’s DBE participation as well as document and maintain records of “Good Faith Efforts” with DBE Entities.
2. Execute written contracts with DBE Entities that meet the applicable DBE goals.
  - a. The Contractor shall provide the DBECO with copies of said contracts within thirty (30) days from the date this Agreement is fully executed between the City and the Contractor.
  - b. The Contractor shall agree to promptly pay subcontractors, including DBE

Entities, in accordance with law.

3. Establish and maintain the following records for review upon request by the OSD:
  - a. Copies of written contracts with DBE Entities and purchase orders;
  - b. Documentation of payments and other transactions with DBE Entities;
  - c. Appropriate explanations of any changes or replacements of DBE Entities, which may include a record of “Post-Award Good Faith Efforts” for each certified firm that the Contractor does not use in accordance with the approved DBE participation submission;
  - d. Any other records required by the OSD.

The Contractor is required to maintain such records for three (3) years after completion or closeout of this Agreement. Such records are necessary to determine compliance with their DBE obligations.

4. Post monthly payments and submit regular reports to the DBECO as required via the online “Contract Compliance Monitoring System” or other means approved by the OSD.



- a. The Contractor shall submit the initial report outlining DBE participation within thirty (30) days from the date of notice to proceed (or equivalent document) issued by the City to the Contractor. Thereafter, "DBE Utilization" reports shall be due on or before the fifteenth (15<sup>th</sup>) day of each month until all DBE subcontracting work is completed.
- b. Reports are required even when no activity has occurred in a monthly period.
- c. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in DBE participation.
- d. The Contractor may also be required to attach or upload copies of canceled checks or bank statements that identify payer, payee and amount of transfer to verify payment information as indicated on the form.

- 5. Conform to the established percentage as approved by the OSD.

- a. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
- b. No changes to the established percentage and DBE Entities submitted on DBE Compliance Form-1 shall be allowed without approval by the OSD.
- c. The City will not adjust the contract for any increase in cost due to replacement of DBE Entities.

#### **D. Post-Award Modification.**

The OSD may grant a post-award modification request if:

- a. for a reason beyond the Contractor's control, the Contractor is unable to use the certified DBE entity submitted on DBE Compliance Form-1 to perform the specified work. The Contractor must notify the OSD of the intent for removal and

substitution of a certified DBE immediately upon determination of that the DBE submitted on Compliance Form - 1 is unable to perform the specified work. In such case, the Contractor shall use and document "Good Faith Efforts" to find a similarly qualified and certified DBE entity to perform such specified work. The same criteria used for establishing "Good Faith Efforts" in maximizing the participation of DBE Entities prior to awarding the Agreement will also apply to the substitution of DBE subcontractors during the performance of the Agreement; or

- b. the Contractor reasonably believes that, due to a change of scope, execution of the work in accordance with the directions from the City is unlikely to meet the established percentage or terms. In such case, the Contractor shall use and document "Good Faith Efforts"

to achieve a reasonable amount of DBE participation on the remaining work on the Agreement.

**14. DURATION.** The services to be provided under the terms of this Contract shall begin upon execution of Contract and shall end no later than twelve (12) months after. It is understood and acknowledged by all signers to this Contract that work described under these terms is to be accomplished during the time period specified herein.

**15. EMPLOYEE VERIFICATION.** The Contractor swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in the Contractor being ineligible for any public contract for a period of three years from the date the violation is discovered. The Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. The Contractor will provide to the City a sworn affidavit attesting to the above provisions if requested by the City. The City may terminate this Agreement for cause if the Contractor fails to provide

such the requested affidavit or violates any provision of this paragraph.

**16. ENTIRE AGREEMENT.** This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

**17. FAMILIARITY WITH LAWS**

The Contractor shall be familiarized with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over the Agreement.

These laws and/or ordinance will be deemed to be included in the Agreement, the same as though herein written in full.

**18. NON-DISCRIMINATION**

**A. Equal Employment Opportunity.** In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (1) will not be discriminate against any employee or applicant for employment because of race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of

pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

**B. Non-Discrimination.** In the performance of this Agreement, the Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

**C.** The City may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

**19. EXCLUSIVE JURISDICTION AND VENUE.** For all claims arising out of or related to this Contract, the Contractor hereby consents and yields to the jurisdiction of the Civil District Court for the Parish of Orleans, and expressly

waives any (A) pleas of jurisdiction based upon Contractor's residence and (B) right of removal to federal court based upon diversity of citizenship.

**20. EXTENSION.** This Contract may be extended at the option of the City, provided that funds are allocated by the Council of the City and the extension of the Contract facilitates the continuity of services provided herein. This Contract may be extended by the City for four (4) additional one-year terms.

**21. FORCE MAJEURE.**

**A. Event.** An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of the City, provided such event was not caused by the negligence or misconduct of the City, by the failure of the City to comply with applicable laws, or by the breach of this Agreement.

**B. Notice.** To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended.

**C. Effect.**

1. Upon the occurrence of a Force Majeure event, for which

the City has provided required notice, the City may, at its sole discretion:

- a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or
- b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to the Contractor and without any further compensation due.

2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

**22. INCORPORATION INTO SUBCONTRACTS.** The Contractor will incorporate these Contract Terms and

Conditions into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with these provisions.

**23. INDEMNIFICATION.**

**A.** To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "Indemnified Parties") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Contractor, its agents or employees while engaged in or in connection with the discharge or performance of any services under this Contract; and for any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of work under this Contract.

**B. Limitation.** The Contractor's indemnity does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither the Contractor nor any of its agents or employees contributed to such gross negligence or willful misconduct.

**C. Independent Duty.** The Contractor has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Contractor is ultimately absolved from liability.

**D. Expenses.** Notwithstanding any provision to the contrary, the Contractor

shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

**24. INDEPENDENT CONTRACTOR STATUS.**

The Contractor is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.

**25. INVOICING.** The Contractor must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include the following information: invoice number, contract or purchase order number issued by the City, and the name of the city department to be invoiced. The City may require changes to the form or the content of the invoice. The City may also require additional supporting documentation to be submitted with invoices.

**26. LIMITATIONS OF THE CITY'S OBLIGATIONS.**

The City has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

**27. LIVING WAGES.**

**A. Definitions.** Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

**B. Compliance.** To the fullest extent permitted by law, the Contractor

agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code (“Living Wage”);
2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and
3. Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

**C. Current Living Wage.** In accordance with the Living Wage Ordinance, the current Living Wage per the Consumer Price Index data is equal to \$11.19. The Contractor shall be responsible for confirming the Current Living Wage by visiting <https://www.nola.gov/economic-development/workforce-development/>.

**D. Adjusted Living Wage.** In accordance with Section 70-806(2) of the City Code, the Contractor acknowledges and agrees that the Living Wage may be increased during the term of the Agreement. Any City contract or City financial assistance agreement (a) extending from one calendar year into the next or (b) with a term of longer than one year, inclusive of any renewal terms or extensions, shall require the Covered Employer to pay the Covered Employee an Adjusted Living Wage, accounting for

the annual Consumer Price Index adjustment. The indexing adjustment shall occur each year on July 1<sup>st</sup> using the Consumer Price Index figures provided for the calendar year ended December 31<sup>st</sup> of the preceding year, and thereafter on an annual basis.

**E. Subcontract Requirements.**

As required by Section 70-804 of the City Code, the Contractor, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance (“Article”). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

**F. Reporting.** On or before January 31<sup>st</sup> and upon request by the City, the Contractor shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development  
Living Wage - Compliance  
1340 Poydras Street – Suite 1800  
New Orleans, Louisiana 70112

**G. Compliance Monitoring.**

Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “OWD”) and/or the Chief Administrative Office (“CAO”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the

Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Contractor will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Contractor agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, payroll records and employee paychecks; and (ii) that the City may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

**H. Remedies.** If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

**28. NO THIRD PARTY BENEFICIARIES.** The Contract is entered into for the exclusive benefit of the City and the Contractor, and the City and the Contractor expressly disclaim any intent to benefit anyone not a party to this Contract.

**29. NON-EXCLUSIVITY.** This Contract is non-exclusive and the Contractor may provide services to other clients, subject to the City's approval of any potential conflicts with the performance of this Contract and the City may engage the services of others for the provision of some or all of the work to be performed under this Contract.

**30. NON-SOLICITATION.** The Contractor has not employed or retained

any company or person, other than a bona fide employee working solely for him, to solicit or secure the subject Contract. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for him, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject Contract.

**31. NON-WAIVER.** The failure of the City to insist upon strict compliance with any provision of the Contract, to enforce any right or to seek any remedy upon discovery of any default or breach of the Contractor at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of the City's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

**32. OWNERSHIP INTEREST DISCLOSURE.** The Contractor will provide a sworn affidavit listing all natural or artificial persons with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor via a counter letter. For the purposes of this provision, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the City may, after thirty (30) days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

**33. PAYMENT.** Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this

Agreement have been delivered, installed (if required), or rendered, and approved by the City after receipt by the City of properly submitted invoice via the City's supplier portal.

#### **34. PERFORMANCE MEASURES.**

**A. Factors.** The City will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; staff turnover; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

**B. Failure to Perform.** If the Contractor fails to perform according to the Agreement, the City will notify the Contractor. If there is a continued lack of performance after notification, the City may declare the Contractor in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting contractor for any increase in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting contractor.

**35. PROHIBITION AGAINST FINANCIAL INTEREST IN AGREEMENT.** No elected official or employee of the City shall have a financial interest, direct or indirect, in the Contract, including through any financial interest held by the spouse, child, or parent. Any willful violation of this provision, with the expressed or implied knowledge of the Contractor, will render this Contract voidable by the City and

shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to the Contractor pursuant to this Contract without regard to the Contractor's satisfactory performance.

**36. PROHIBITION ON POLITICAL ACTIVITY.** None of the funds, materials, property, or services provided directly or indirectly under the terms of this Contract shall be used in the performance of this Contract for any partisan political activity, or to further the election or defeat of any candidate for public office.

**37. REMEDIES CUMULATIVE.** No remedy set forth in the Contract or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

**38. SEVERABILITY.** If a court of competent jurisdiction finds any provision of the Contract to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or, if reformation is not possible, the unenforceable provision will be fully severable and the remaining provisions of the Contract will remain in full force and effect and will be construed and enforced as if the unenforceable provision was never a part the Contract.

**39. SUBCONTRACTOR REPORTING.** The Contractor will provide a list of all natural or artificial persons who are retained by the Contractor at the time of the Contract's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the City. For any subcontractor proposed to be retained by the Contractor to



perform work on the Contract with the City, the Contractor must provide notice to the City within thirty (30) days of retaining that subcontractor. If the Contractor fails to submit the required lists and notices, the City may, after thirty (30) days' written notice to the Contractor, take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

**40. SURVIVAL.** All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction, venue, choice of law, and warranties shall survive the expiration, suspension, or termination of the Contract and continue in full force and effect.

**41. SUSPENSION.** The City may suspend this Contract at any time and for any reason by giving two (2) business day's written notice to the Contractor. The Contractor will resume work upon five (5) business day's written notice from the City.

**42. TAX CLEARANCE.** **(NEW PROVISION AS OF MARCH 2024)** On or about March 1st of each calendar year that the contract is effect, the Contractor must complete a tax clearance form with the information from the contractor, sign it, and submit it to the department, board, or commission that manages the contract (Department). The Department will then use the tax clearance form to verify with the Departments of Revenue, Treasury, and Finance whether the Contractor is delinquent with city taxes or not. If found delinquent, the Contractor must cure it, after being notified by the Department, or the contract could be terminated for cause.

**43. TERMINATION FOR CAUSE.** The City may terminate this Agreement

immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City's Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective thirty (30) days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

**44. TERMINATION FOR CONVENIENCE.** The City may terminate this Contract at any time during the term of the Contract by giving the Contractor written notice of the City's intention to terminate at least thirty (30) days before the date of termination.

**45. TERMINATION FOR NON-APPROPRIATION.** This Contract will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Contract without the requirement of notice and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Contract.

**46. TERMS BINDING.** The terms and conditions of the Contract are binding on any heirs, successors, transferees, and assigns.

**47. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS.** It is expressly agreed and understood between the parties entering into this Contract that the Contractor, acting as an independent

agent, shall not receive any sick and annual leave benefits from the City of New Orleans.

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**[END OF SOLICITATION]**

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