



**CITY OF PHILADELPHIA  
REQUEST FOR PROPOSALS  
DISTRIBUTED SOLAR PHOTOVOLTAIC PROJECT  
NORTHEAST PHILADELPHIA AIRPORT**

**ISSUED BY:  
PHILADELPHIA ENERGY AUTHORITY ON BEHALF OF  
CITY OF PHILADELPHIA'S DEPARTMENT OF COMMERCE, DIVISION OF AVIATION**

<b>RFP Release Date</b>	March 17, 2021
<b>RFP Questions Due</b>	April 7, 2021
<b>Proposal Deadline</b>	April 30, 2021



**City of Philadelphia  
Division of Aviation  
NORTHEAST PHILADELPHIA AIRPORT**

**Legend**

Proposed Land Release	Contour 2ft
Estimated Developable Area	78 88 96
Object Free Area	80 90 100
RSA	82 92 102
Marking Lines	84 94 104
Hydrographic	86 96 106
Airport Property Line	

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**ALL ATTACHMENTS ARE SEPARATE LINKS ON PHILAENERGY.ORG & ARE NOT INCLUDED HEREIN**

**Attachment A – Project Site Details**

**Attachment B – Required Proposal Content**

**Attachment C – Pricing Structure**

**Attachment D – Pricing Proposal Worksheet**

**Attachment E – Scope of Work**

**Attachment F – Economic Opportunity Plan Goals, Requirements, and Past Achievement Form**

**Attachment F-2 – EOP Workforce and Commitment Forms**

**Attachment G – City of Philadelphia Tax and Regulatory Status and Clearance Statement**

**Attachment H – Local Business Entity or Local Impact Certification**

**Attachment I – PNE Bills**  
**Attachment J – Term Sheet**  
**Attachment K – Insurance Requirements**  
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## Summary

Deadline for Submittal of Questions	April 7, 2021
Deadline for Submittal of Proposals	April 30, 2021
Municipal Authority	Philadelphia Energy Authority
Generation Technology	Solar photovoltaic (ground-mount)
Generation Facility Location	A 10-acre site at Northeast Philadelphia Airport, 9800 Ashton Road, Philadelphia
Project Size	1.6-2.0 MW, or approximately 2,500-3,500 MWh per year
Contract Term	20-25 years
Target Commercial Operation Date	3/30/2022
Product Definition	Energy and renewable energy credits (“RECs”). Proposals may include project-specific or Green-e national RECs, but project-specific are preferred.
Deal Structure	Power Purchase Agreement
Preferred Pricing Settlement	$(1 \text{ minus Discount Factor}) \times \text{Electricity Bill}$
Discount Factor	A percentage less than 100%, fixed for Contract Term
Electricity Bill	PECO Energy Rate PD fixed and variable billing determinants multiplied by applicable PNE monthly usage
Buyer Credit Support	City of Philadelphia (“Buyer”) parent guarantee. Buyer will not be required to provide credit support if its long-term credit rating is equivalent or greater than investment grade (BBB0/Baa3)

## SECTION 1 – GENERAL INFORMATION

### 1.1 Project Overview

The Philadelphia Energy Authority (“PEA”), on behalf of the City of Philadelphia (“City”), requests proposals for electricity and renewable energy credits (“RECs”) to be generated from a 1.6-2 MW (ac) distributed solar photovoltaic (“PV”) resource at the Northeast Philadelphia Airport (“PNE”), through a long-term power purchase agreement (“PPA” or “Contract”), with commercial operation in the first quarter of 2022. The PEA and the City will be referenced together throughout as the “RFP Administrator.” The City department leading this effort is the Commerce Department’s Division of Aviation (“Aviation”). If a firm did not respond to the related RFI released in September 2019, they are still able to respond to this Request For Proposals (“RFP”).

In connection with the PPA, the City and the successful Proposer will simultaneously enter into a ground lease agreement (“Lease”) for approximately 10.25 acres of land located within a 15.19-acre partially wooded area about 1,200 feet north of a PECO Energy 4 kV substation at PNE (“Parcel”) for the successful Proposer to install, operate, and maintain the distributed solar PV resource at PNE, at its sole cost and expense.

### 1.2 Philadelphia City Council and FAA Compliance<sup>1</sup>

Proposers are advised that the transaction resulting from this RFP will require the approval of Philadelphia City Council. An ordinance will be required to be passed by Philadelphia City Council and signed by the Mayor.

1. Land lease: The Proposer that is selected to build, own, and operate the solar project will execute the Lease with the City, as required by the Federal Aviation Administration (“FAA”). Lease cost must be provided on a standalone basis and not part of the offtake price offer. Fair market value will be established by an independent appraisal and may be approved by the FAA. The City intends to enter into negotiations with the successful Proposer for the Lease, which will run concurrently with the PPA.
2. Regulatory and safety requirements: The FAA has broad authority to protect airspace and will require data to review and approve potential impacts of the solar project on air traffic through the 7460-1 application and determination process. Such data will include analysis associated with glare/reflectivity at airports and airfield geometries intended to preserve the safety of operating aircraft. FAA Ocular Hazard Standards for glare within FAA’s Interim Solar Policy shall be followed. In order for the FAA to issue a notice to construct for the solar project, a selected vendor must receive a no hazard determination to satisfy the 7460-1 requirements. Review Section 4.2 (FAA Approvals) herein for more information.
3. The PV collection system may not interfere with the safe operation of PNE, including FAA equipment and aircraft operations. If the completed system interferes in any way with

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<sup>1</sup> For more information, please refer to:

[https://www.faa.gov/airports/environmental/policy\\_guidance/media/FAA-Airport-Solar-Guide-2018.pdf](https://www.faa.gov/airports/environmental/policy_guidance/media/FAA-Airport-Solar-Guide-2018.pdf)

the safe operation of PNE, the successful Proposer will immediately and entirely eliminate the source of the interference at their sole cost.

## SECTION 2 – PROCUREMENT

### 2.1 Procurement Schedule

ACTIVITY	RESPONSIBILITY	DATE & TIME
RFP Posted	PEA	March 17, 2021
RSVP to Mandatory Pre-Proposal Virtual Meeting Deadline	Proposers	March 26, 2021
Mandatory Pre-Proposal Virtual Meeting	Aviation	March 31, 2021 @ 10:00 AM Click <a href="#">here</a> to join the Teams meeting Or call in (audio only) +1 267-422-2007 Phone Conference ID: 347 154 570#
Deadline for Submittal of RFP Questions	Proposers	April 7, 2021 – Submit all questions via email to <a href="mailto:PNESolar@philaenergy.org">PNESolar@philaenergy.org</a> and <a href="mailto:Alec.Gever@phl.org">Alec.Gever@phl.org</a>
RFP Submission Deadline	Proposers	April 30, 2021 at 5:00 PM Eastern Time
Development of Shortlist*	PEA, Energy Office, & Aviation	May 2021
Developer Virtual Interviews	Aviation, PEA, Energy Office & Proposers	TBD
Selection of Winner	PEA, Energy Office & Aviation	TBD
Start Contract Negotiations	Selected Proposer(s)	TBD
Contract Review or Approval	PEA, Energy Office, & Aviation	TBD
Lease Agreement Execution	Selected Proposer(s), FAA, & Aviation	November 2021
Power Purchase Agreement Execution	Selected Proposer(s), PEA, Energy Office, & Aviation	November 2021

\*The RFP Administrator is not required to notify each Proposer if they have, or have not, been chosen for the shortlist. However, a best effort will be made by the RFP Administrator to contact each Proposer.

### 2.2 Point of Contact

Please direct all inquiries to:

3/16/2021 9:40 AM

Alec Gever, Purchasing Manager  
Philadelphia International Airport  
Alec.Gever@phl.org

with copies to:

Philadelphia Energy Authority  
[PNESolar@philaenergy.org](mailto:PNESolar@philaenergy.org)

Proposals must be received no later than 5:00PM on April 30, 2021 . Responses shall only be submitted electronically by email to BOTH [Alec.Gever@phl.org](mailto:Alec.Gever@phl.org) and [PNESolar@philaenergy.org](mailto:PNESolar@philaenergy.org). Submissions may not exceed 25MB.

### 2.3 Procurement Phases

Upon completion of the RFP phase, contract negotiations may be initiated. As determined in the sole discretion of the RFP Administrator, such negotiations may be conducted with all or more than one Proposer simultaneously or with one Proposer initially on the detailed terms and conditions of the PPA and/or the Lease.

### 2.4 Evaluation Committee

Proposals will be evaluated in accordance with the criteria set forth in Section 2.5 below, as well as any other factors considered relevant to each Proposer's ability to deliver the project. A committee may include, but not limited to, representatives of Aviation, PEA, and the Energy Office ("Evaluation Committee") to evaluate proposals. To assist with project evaluation, the RFP Administrator may hire a consultant (or multiple consultants) to assist in evaluating project cost proposals, evaluating risk associated with project development, assisting with contract negotiations, or other support as appropriate to thoroughly evaluate proposals.

### 2.5 Proposal Evaluation

Selection will be based on the following criteria, reviewed in an evaluation process conducted by the Evaluation Committee. The proposal that provides the highest-value combination of economic and non-economic criteria will be selected. The criteria are listed in no particular order:

- Strength of the technical submittal and major equipment details
- Strength of the offer price and methodology approach
- Term sheet markup
- Financial strength of Proposer
- Prior experience with projects and demonstration of completed similar projects on schedule and functioning as designed
- Industry reputation
- Customer references
- Overall project team credentials and staffing

- Responsiveness to Philadelphia anti-discrimination policy and Economic Opportunity Plan
- Local/regional presence
- Best value provided to the RFP Administrator

## 2.6 Mandatory Virtual Pre-Proposal Meeting and Virtual Airport Tour

A mandatory virtual pre-proposal meeting (“Pre-Proposal Meeting”) will be held for all interested parties (not more than three (3) representatives from each Proposer) on March 31, 2021 at 10 A.M. Eastern Daylight Time. Proposers will receive, by email, a hyperlink that will enable them to access and participate in the Pre-Proposal Meeting, together with a hyperlink that will enable them to access a pre-recorded video tour of the Parcel and corresponding exhibits to the video tour. The purpose of the Pre-Proposal Meeting will be to review the requirements contained in the RFP and entertain general questions that Proposers may have concerning this RFP. The answers will also be posted as an addendum to the RFP. Attendance at this Pre-Proposal Meeting is mandatory and only those who attend will be eligible for an award of the contract from this RFP.

Proposers shall RSVP for the Pre-Proposal Meeting by no later than March 26, 2021 to the City’s Point of Contact via email.

## 2.7 Organization of RFP

The RFP contains general information with associated attachments. The attachments go into greater detail on commercial and legal/regulatory requirements, and Proposers are strongly encouraged to review all of the information contained therein.

## 2.8 Communications

All questions, requests for clarification, and requests for additional information regarding this RFP must be submitted to the Point of Contact, listed above, prior to April 7, 2021 at 5:00 PM Eastern Daylight Time. All such questions and requests must be submitted **in writing**, by email, as instructed above. Responses to such questions and requests will be at the RFP Administrator’s sole discretion and nothing in this RFP will create an obligation on the RFP Administrator to respond to the submitting party or at all. In the RFP Administrator’s sole discretion, responses may be posted on the PEA’s website without formal notification. No oral response by any employee or agent of the City shall be binding on the RFP Administrator or will in any way constitute a commitment.

If you have a question, please first review the [www.philaenergy.org/public-bids/PNEsolar](http://www.philaenergy.org/public-bids/PNEsolar) website for any posted addenda answering questions to see if they provide the answer.

The RFP Administrator is fully committed to a fair and impartial RFP process. The RFP Administrator may, in its sole discretion, issue addenda to this RFP containing responses to questions and requests for information, addressing matters raised by Proposers, clarifications of the RFP, revisions to the RFP, or any matters that the RFP Administrator deems appropriate.

Addenda will be posted at [www.philaenergy.org/public-bids/PNEsolar](http://www.philaenergy.org/public-bids/PNEsolar). It is the Proposer's responsibility to monitor the PEA website for addenda and to comply with their terms. If a Proposer finds any inconsistency or ambiguity in the RFP or an addendum to the RFP, the Proposer is requested to notify the Point of Contact in writing.

## 2.9 Non-Binding RFP

This RFP is not binding on the RFP Administrator. The RFP Administrator reserves the right to amend or otherwise modify the RFP at any time; to reject any proposal; and to cancel the RFP. No Proposer is granted any rights hereunder. Your proposal to this RFP constitutes an offer to do business. The purpose of this document is to explain the City's requirements and to provide instructions and information for the preparation of your proposal in response to this RFP.

## 2.10 Reservation of Rights

The RFP Administrator reserves the right to accept any proposal that it feels best meets its interests and needs in its sole and absolute discretion. The RFP Administrator reserves the right to waive any irregularity, informality, or non-compliance in information received. The RFP Administrator reserves the right to negotiate modifications to any single Proposer's response without an obligation to negotiate a similar modification to other Proposers' responses.

The RFP Administrator is not liable for any costs incurred by any Proposer prior to execution of any contract (e.g., in the generation or submission of proposals, presentations given to RFP Administrator personnel or its designees, documentation provided to RFP Administrator personnel or its designees, production of marketing literature, or any other costs incurred while participating in this RFP process). **RFP Administrator may, in its sole discretion, contact Proposers for further information, discussions, or clarifications.** The RFP Administrator is not obligated to conduct subsequent discussions with any Proposer to this RFP.

## 2.11 Limitation of Liability

This RFP will not, by itself, give any right to any party for any claim against the RFP Administrator. Furthermore, by submitting a proposal, Proposer will be deemed to have acknowledged that the RFP Administrator assumes no liability in any fashion with respect to this RFP or any matters related thereto.

By submission of a proposal, Proposer, for itself as well as for its successors and assigns (if any), agrees that, as between Proposer and the RFP Administrator, Proposer is to be solely responsible for all claims, demands, accounts, damages, costs, losses, and expenses of whatsoever kind in law or equity, known or unknown, foreseen, or unforeseeable, arising from or out of this RFP.

## 2.12 Public Disclosure and Confidential Information

All proposals submitted in response to this RFP will become the property of the RFP Administrator upon submittal. All responses, proposals and other information submitted in response to this RFP are subject to the public disclosure requirements of applicable law, including the Pennsylvania Right to Know Law. To the extent permitted by applicable law, the RFP

Administrator will use best efforts to keep from public access the specific information that is identified by the Proposer as confidential. If a Proposer claims an exception to public disclosure requirements and desires that the RFP Administrator keep certain information from public disclosure, then the proposal must include a notice at the front page in each volume as follows:

“Confidential Information Notice

The information on pages \_\_\_\_\_ of this proposal, identified by a bold vertical line along the right-hand margin, contains information that is excluded from public disclosure under applicable law. Proposer requests that such marked information be utilized by the RFP Administrator only for evaluation of this proposal, but Proposer understands that the RFP Administrator is bound by applicable law and that such information may be disclosed in accordance with such law.

The legal basis for the claim for protection of the marked information from public disclosure is set forth as follows: [Proposer to provide basis]”

Notwithstanding any such notice, however, the RFP Administrator may disclose such marked information to individuals participating in the review or evaluation of proposals, including members of the Evaluation Committee, other RFP Administrator employees, and advisors, attorneys, and consultants.

## SECTION 3 – PROJECT DETAILS<sup>2</sup>

### 3.1 Solar Project Site

The project will be constructed within the Parcel as defined in Section 1. The unobstructed acreage is mostly flat and not in use. Approximately 10.25 acres will be made available for project development and operation.

### 3.2 Project Objectives

The City is committed to 100% renewable electricity for all City building electric load by 2030. Consistent with the 100% renewable electricity objective, Aviation has set the following additional goals:

- 20% reduction in energy use intensity, or EUI (energy use per square foot) in all terminal facilities (i.e., PNE and Philadelphia International Airport, or “PHL”) by 2030.
- 10% reduction in total greenhouse gas emissions by 2030 relative to a 2006 baseline.
- At least one operational renewable energy project at PNE or PHL by early 2022, and an assessment of an additional project, or expansion of an existing project, by 2025.

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<sup>2</sup> The Scope of Work for the project is set forth on **Attachment E**.

While the PNE solar project is in furtherance of all of those objectives, the RFP Administrator also wants to save money on electricity usage at airport buildings, compared to what it would have paid without a renewable energy project.

A related objective is to encourage local economic development and a diverse work force, including employment opportunities from disadvantaged, minority, or women-owned business enterprises. Information on how projects can maximize co-benefits of reducing carbon pollution, creating local and clean energy jobs, or creating opportunities for minority, women, and disabled-owned business enterprises are encouraged with proposals. Proposers are also encouraged to submit creative solutions to include local workforce development opportunities and diversity in both prime and subcontractor positions.

### 3.3 Northeast Philadelphia Airport

PNE<sup>3</sup> is Pennsylvania's sixth busiest airport and provides "on-call" U.S. Customs, Immigration and U.S. Department of Agriculture services to corporate international travel. PNE sits on approximately 1,026 acres in the Far Northeast section of Philadelphia, with an entranceway at 9200 Ashton Road, which is perpendicular to Grant Avenue on the south side of the airport. The airport has two runways and associated taxiways and 100 large and small hangars, plus an assortment of mixed-use buildings. Approximately 200 aircraft are based at PNE – mostly single-engine aircraft, plus twins, jets, turboprops, and helicopters.

### 3.4 Exclusivity

The PPA will be consistent with the terms and conditions contained in the term sheet in **Attachment J**. On or before the commencement of contract negotiations, the RFP Administrator and the winning Proposer or Proposers will execute a non-binding Letter of Intent that includes a sixty (60)-day Exclusivity Period during which Proposers will be asked to: i) preserve all economic and non-economic provisions of their proposals; and ii) to use all reasonable efforts to close the transaction, pending all necessary approvals, on or prior to the termination of the Exclusivity Period.

### 3.5 Agency Overviews

#### 3.5.1 Philadelphia Energy Authority – Energy Campaign

PEA is an independent municipal authority focused on building a robust, equitable clean energy economy in Philadelphia. Among other programs, PEA holds long-term energy contracts on behalf of the City of Philadelphia and works closely with the Office of Sustainability and Energy Office to achieve shared goals. In 2016, PEA launched the Philadelphia Energy Campaign, a 10-year initiative to invest \$1 billion in clean energy and energy efficiency projects to create 10,000 jobs. PEA has supported over \$160 million in projects and supported creation of over 1,500 jobs to date. Learn more at <http://www.philaenergy.org>.

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<sup>3</sup> <https://www.phl.org/business/PNE>

### **3.5.2 City of Philadelphia - Division of Aviation**

PNE is operated by Aviation, a division within the Philadelphia Department of Commerce. PEA and Aviation jointly will manage the competitive process to select a company to develop, build, and own and operate the solar project. PEA will execute the PPA, with the City as guarantor. Aviation will enter into the Lease with the selected Proposer for the installation, operation, and maintenance of the project.

### **3.5.3 City of Philadelphia - Office of Sustainability – Energy Office and Greenworks**

The City’s Office of Sustainability is responsible for implementing Greenworks: A Vision for a Sustainable Philadelphia, the City’s comprehensive sustainability plan and a priority for the City’s Mayor, Jim Kenney. The Energy Office, part of the Office of Sustainability, developed a Municipal Energy Master Plan for the built environment to guide the City to meet Mayor Kenney’s climate goals. The plan outlines four goals and many actions which are crucial to demonstrating City leadership in sustainability. A full copy of the report can be found at <https://www.phila.gov/documents/municipal-energy-master-plan>.

## **SECTION 4 – SUBMITTAL REQUIREMENTS**

### **4.1 Pricing**

The City’s preferred pricing methodology is a monthly simulation of PNE’s electricity bill<sup>4</sup>, reduced by a fixed percentage, though other pricing structures will be considered. The product definition includes metered generation and project-specific solar renewable energy credits (“RECs”), or national Green-e RECs, if the proposal incorporates a REC exchange. Proposals may show separate offer prices with each type of REC. The Proposer is responsible for seeking incentive payments and will be expected to take advantage of federal tax incentives, including tax credits and accelerated depreciation, to minimize the cost of power to the City.

For more information on the Pricing Structure see **Attachment C**. In connection therewith, Proposers will be required to fill out **Attachment D** (Pricing Worksheet).

### **4.2 FAA Approvals**

The project must comply with the following:

- Airport Layout Plan (“ALP”)
- FAA’s 14 CFR Part 77 regulations

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<sup>4</sup> PNE’s electricity bills for July 2018-June 2019 and July 2019-June 2020 are attached hereto as **Attachment I**.

- FAA’s Technical Guidance for Evaluating Selected Solar Technologies, [https://www.faa.gov/airports/environmental/policy\\_guidance/media/FAA-Airport-Solar-Guide-2018.pdf](https://www.faa.gov/airports/environmental/policy_guidance/media/FAA-Airport-Solar-Guide-2018.pdf)
- The National Environmental Policy Act (NEPA) and local, state and federal regulations as needed.

Aviation, in cooperation with the successful Proposer, will take responsibility for ALP conformance, Part 77 conformance, fair market value, and NEPA compliance. Proposals must include a passing (as in, “not failing”) preliminary glare analysis using Forge Solar (<https://www.forgesolar.com/>), or an equivalent glare analysis methodology approved by the FAA. Submitted glare analyses must exactly match the size and location of any proposed solar array. If single axis tracking technology is proposed, the glare analysis must indicate all possible azimuth, tilt, angles, and positions of the modules at any given time to pass FAA glare requirements. The successful Proposer must submit a final passing glare analysis to the FAA before construction may begin.

#### 4.3 Environmental Matters

The project will be developed and operated on the Parcel. See **Attachment A** – Project Site Details.

For purposes of this RFP, and without any due diligence undertaken by the RFP Administrator, it is assumed that the Parcel is free and clear of any and all environmental contamination. The selected Proposer may, but is not required to, undertake any reasonable environmental due diligence, including a Phase I and/or Phase II environmental assessment prior to the execution of the Lease. The selected Proposer will be responsible for any environmental condition existing on the Parcel, unless prior to the execution of the PPA and the Lease, the selected Proposer completes the foregoing environmental assessment(s) which identifies a pre-existing environmental condition). In such event, the selected Proposer will not be responsible for any pre-existing environmental conditions existing prior to the execution of the Lease, provided, however, the selected Proposer will be responsible for any pre-existing conditions to the extent the selected Proposer’s operations exacerbate, aggravate, or otherwise adversely impact such pre-existing conditions. If the parties disagree as to the pre-existing condition of the Parcel, the selected Proposer bears the burden of proof regarding any pre-existing condition at the Parcel. After execution of the Lease, the selected Proposer will, at its sole cost and expense, be responsible for all environmental conditions at the Parcel, irrespective of who/what causes the environmental condition.

The development and operation of the project is subject to all applicable Federal, Commonwealth and Local environmental laws and regulations, including those implementing the National Environmental Policy Act (NEPA), as may be amended or superseded from time to time.

#### 4.4 Aviation Design Process

The design process may and is encouraged to run concurrent with contract negotiations between the selected Proposer and the RFP Administrator. The design process is meant to ensure all requirements and regulations for airport design and FAA are met. Items covered in this process include site plan, site clearing & grading, environmental & sustainability plan, construction safety and phasing plan, FAA glare analysis submission, interconnection details, coordination with PECO, electrical design, equipment specifications, ground fault avoidance for PECO transmission system, and other major site plan details. Review Aviation's CAD standards as well as Architectural and Design Standards at: <https://www.phl.org/business/design-code>.

#### 4.5 Term Sheet

A non-binding term sheet (**Attachment J**) will be used as the basis for the PPA. Proposers are required to provide a markup of the term sheet or indicate agreement with all of its provisions. The markups will be part of the RFP Administrator's evaluation process – that is, substantive disagreement with commercial terms and conditions will result in a lower rank.

Short-listed development companies will be given a second opportunity to provide term sheet comments, which may be negotiated during the final evaluation and selection process. Once agreement is reached on all term sheet provisions, the PPA will incorporate them as negotiated. The intent is to streamline PPA negotiations as much as possible.

Short-listed development companies will be asked to submit their form PPAs. The evaluation process will include review of the form PPA, but the document to be negotiated may not be the successful Proposer's form.

#### 4.6 Proposal Submission Requirements

Proposers must submit the following documents:

- Signed proposal in format shown in **Attachment B**
- Pricing worksheet (**Attachment D**)
- Markup of non-binding term sheet (**Attachment J**)
- Completed Participation Commitment/Diversity Report and Forms (**Attachment F & F-2**)
- Philadelphia Tax and Regulatory Status and Clearance Statement (**Attachment G**)
- Completed Local Business Entity or Local Impact Certification (**Attachment H**)
- Completed Campaign Contribution Disclosure Form (**Attachment L**)

##### **4.6.1 Office of Economic Opportunity – Participation Commitment/ Diversity Reports**

The Project resulting from this RFP may require an Economic Opportunity Plan ("Plan") which will provide significant opportunities for the participation of MBEs, WBEs and DSBEs (collectively, "M/W/DSBEs"). The City's Office of Economic Opportunity must approve the Economic Opportunity Plan ("EOP"). The Plan requires evidence that Proposer has exercised its best and good faith efforts to provide subcontracting

opportunities for M/W/DSBEs in all phases of the Project and to employ a diverse workforce. The Plan expressly applies to all contracts awarded in connection with the Project.

Proposers must provide a completed EOP and M/W/DSBE Participation and Diverse Workforce Commitments Form that includes proposed project partners. **Attachments F and F-2** includes other submission requirements related to this Section.

#### 4.6.2 Philadelphia Tax and Regulatory Status and Clearance Statement

Proposals must include a completed Philadelphia Tax and Regulatory Status and Clearance Statement (see **Attachment G**).

It is the policy of the City to ensure that each contractor and subcontractor has all required licenses and permits and is current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation of other regulatory provisions contained in the Philadelphia Code. To assist the City, through its Department of Revenue and Department of Licenses and Inspections, in determining this status, each Proposer is required to submit with its proposal the certification statement entitled "City of Philadelphia Tax and Regulatory Status and Clearance Statement" which is attached to this RFP as **Attachment G**.

If the Proposer is not in compliance with the City's tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, Proposers will not be eligible for award of the contract contemplated by this RFP.

The selected Proposer will also be required to assist the City in obtaining the above information from its proposed subcontractors (if any). If a proposed subcontractor is not in compliance with City Codes and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to participate in the contract contemplated by this RFP and the selected Proposer may find it necessary to replace the non-compliant subcontractor with a compliant subcontractor. Proposers are advised to take these City policies into consideration when entering into their contractual relationships with proposed subcontractors.

If a Proposer or a proposed subcontractor is not currently in compliance with the City's tax and regulatory codes, please contact the Revenue Department at 215-686-6600 or [revenue@phila.gov](mailto:revenue@phila.gov).

Proposers need not have a City of Philadelphia Business Income and Receipts Tax Account Number (formerly Business Privilege Tax Account Number) and Commercial Activity License Number (formerly Business Privilege License Number) to respond to this RFP, but

will, in most circumstances, be required to obtain one or both if selected for award of the contract contemplated by the RFP. Applications for a Business Income and Receipts Tax Account Number or a Commercial Activity License may be made online by visiting the City's Business Services Portal at <http://business.phila.gov/Pages/Home.aspx> and clicking on "Register Now." If you have specific questions, call the Department of Revenue at 215-686-6600 for questions related to City of Philadelphia Business Income and Receipts Tax Account Number or the Department of Licenses and Inspections at 215-686-2490 for questions related to the Commercial Activity License.

#### **4.6.3 Local Business Entity or Local Impact Certification**

Pursuant to Mayoral Executive Order No. 04 -12, the City will, in the selection of the successful Proposer, consider whether that Proposer has certified that either (1) Proposer meets the criteria stated in Section 17-109(3)(b) of the Philadelphia Code to qualify as a Local Business Entity or (2) in the performance of the resulting contract, Proposer will employ City residents, or perform the work in the City. Any Proposer who wishes to demonstrate its eligibility for this consideration shall do so by completing, executing, and attaching to its application a completed Local Business Entity or Local Impact Certification, the form of which is attached to this RFP as **Attachment H**. The Proposer shall then also include in a separate section of the application, labeled "Local Business Entity or Local Impact Certification," a statement that the Proposer believes it has met the Local Business Entity or Local Impact criteria "as set forth in the attached Local Business Entity or Local Impact Certification." The City shall deem it a positive factor where the Proposer has, in the City's sole discretion, met the Local Business Entity or Local Impact criteria.

#### **4.6.4 Required Disclosure**

Pursuant to Chapter 17-1400 of the Philadelphia Code, Proposers are required to disclose their campaign contributions to political candidates and incumbents who are running for, or currently serving in, a local (Philadelphia) or state-wide elected office anywhere within the Commonwealth of Pennsylvania (federal campaign contributions are not included); any consultants used in responding to the RFP and contributions those consultants have made; prospective subcontractors; and whether Proposer or any representative of Proposer has received any requests for money or other items of value or advice on particular firms to satisfy minority-, woman- or disabled-owned business participation goals from City employees. Proposals must include a completed Campaign Contribution Disclosure Form, **Attachment L**.

#### **4.6.5 Compliance with Philadelphia 21st Century Minimum Wage and Benefits Ordinance**

Proposers are advised that any contract awarded pursuant to this RFP is a "Service Contract," and the successful Proposer under such contract is a "Service Contractor," as

those terms are defined in Chapter 17-1300 of the Philadelphia Code (“Philadelphia 21st Century Minimum Wage and Benefits Standard Ordinance”). Any sub-subcontractor at any tier proposed to perform services sought by this RFP, is also a “Service Contractor” for purposes of Chapter 17-1300. If any such Service Contractor (i.e., Proposer and subcontractors at any tier) is also an “Employer,” as that term is defined in Section 17-1302 (more than five employees) and is among the Employers listed in Section 17-1303 of the Code, then during the term of any resulting contract, it is subject to the minimum wage and benefits provisions set forth in Chapter 17-1300 unless it is granted a waiver or partial waiver under Section 17-1304. Absent a waiver, these minimum wage and benefits provisions, which include a minimum hourly wage that is adjusted annually based on the CPI, health care and sick leave benefits, are mandatory and must be provided to Proposer’s employees or the employees of any subcontractor at any tier who perform services related to the City contract resulting from this RFP. Proposers and any subcontractors at any tier proposed by Proposers are strongly encouraged to consult Chapter 17-1300 of the Philadelphia Code, the General Provisions, and the About/Minimum Wage and Equal Benefits Ordinances Impacting Some City Contractors links on the eContract Philly home page for further details concerning the applicability of this Chapter to, and obligations it imposes on certain City contractors and subcontractors at any tier. In addition to the enforcement provisions contained in Chapter 17-1300, the successful Proposer’s failure or the failure of any subcontractor at any tier to comply (absent an approved waiver) with the provisions of Chapter 17-1300, or any discrimination or retaliation by the successful Proposer or Proposer’s subcontractors at any tier against any of their employees on account of having claimed a violation of Chapter 17-1300, shall be a material breach of any Service Contract resulting from this RFP. By submitting a proposal in response to this RFP, Proposers acknowledge that they understand, and will comply with the requirements of Chapter 17-1300, and will require the compliance of their subcontractors at any tier if awarded a contract pursuant to this RFP. Proposers further acknowledge that they will notify any subcontractors at any tier proposed to perform services related to this RFP of the requirements of Chapter 17-1300.

#### **4.6.6 Certification of Compliance with Equal Benefits Ordinance**

If this RFP is a solicitation for a “Service Contract” as that term is defined in Philadelphia Code Section 17-1901(4) (“A contract for the furnishing of services to or for the City, except where services are incidental to the delivery of goods. The term does not include any contract with a governmental agency”), and will result in a Service Contract in an amount in excess of \$250,000, pursuant to Chapter 17-1900 of the Philadelphia Code (see footnote 3 for online access to the Philadelphia Code), the successful Proposer shall, for any of its employees who reside in the City, or any of its employees who are non-residents subject to City wage tax under Philadelphia Code Section 19-1502(1)(b), be required to extend the same employment benefits the successful Proposer extends to spouses of its employees to life partners of such employees, absent a waiver by the City under Section 17-1904. By submission of their Proposals in response to this RFP, all Proposers so acknowledge and certify that, if awarded a Service Contract pursuant to this RFP, they will

comply with the provisions of Chapter 17-1900 of the Philadelphia Code and will notify their employees of the employment benefits available to life partners pursuant to Chapter 17-1900. Following the award of a Service Contract subject to Chapter 17-1900 and prior to execution of the Service Contract by the City, the successful Proposer shall certify that its employees have received the required notification of the employment benefits available to life partners and that such employment benefits will actually be available, or that the successful Proposer does not provide employment benefits to the spouses of married employees. The successful Proposer's failure to comply with the provisions of Chapter 17-1900 or any discrimination or retaliation by the successful Proposer against any employee on account of having claimed a violation of Chapter 17-1900 shall be a material breach of the any Service Contract resulting from this RFP. Further information concerning the applicability of the Equal Benefits Ordinance, and the obligations it imposes on certain City contractors is contained in the General Provisions attached to this RFP and the About/Minimum Wage and Equal Benefits Ordinances Impacting Some City Contractors links on the eContract Philly home page.

#### 4.7 Form of Contract and Requested Exceptions to Contract Terms

The Contract and Lease will incorporate the contractual provisions set forth in Section 5 (General Contract Provisions). As used herein, "Agreements" shall collectively refer to the PPA and the Lease. To the extent that the provisions contained in Section 5 speak in terms of the "Contractor," each Proposer should interpret those provisions as applicable to Proposer in the event that Proposer is selected for award of the contract sought by this RFP.

The contractual provisions set forth in Section 5 (General Contract Provisions) and related Attachments to this RFP will not be negotiated or modified, unless the RFP Administrator, in its sole discretion, modifies them in writing before the Submission Deadline or unless the Proposer has raised an objection in accordance with the provisions herein (in which event the RFP Administrator will consider such objection).

The RFP Administrator reserves the right, however, to require or negotiate different and/or additional terms and conditions in any final contract resulting from this RFP if, in the sole discretion of the RFP Administrator, it is in the best interest of the Administrator to do so, without notice to other Proposers and without affording other Proposers any opportunity to revise their Proposals based on such different or additional terms.

In its Proposal, a Proposer may state objections to the requirements of this RFP. Any objections must be stated in a separate section of the Proposal, and the Proposers must identify the specific provisions and language of this RFP that Proposer objects to, must state the reason(s) for each objection, and must propose alternative provisions. By not objecting to a provision and submitting a Proposal in response to this RFP, a Proposer irrevocably agrees that the provision is acceptable to it. The RFP Administrator may, in its discretion, evaluate a Proposal, in part, on the number and nature of objections made by the Proposer to the provisions of this RFP. In no event will the RFP Administrator's selection of a Proposer for further negotiations leading to the Agreements constitute acceptance by the Administrator of any objection or proposed alternative

provision set forth in that Proposer's Proposal. The Administrator reserves the right, in its sole discretion, to evaluate and reject Proposals based on part on whether the Proposer's proposal contains objections to RFP requirements, and the number and type of such requests and alternative terms proposed.

If, after the RFP Administrator awards the Contract opportunity to a Proposer, the Proposer seeks objections to the requirements that were not stated in its Proposal, the RFP Administrator may in its sole discretion deny the objections without consideration or reject the proposal.

The RFP Administrator reserves the right, in its sole discretion, (i) to waive any failure to comply with the terms of this Section if it determines it is in the best interest of the RFP Administrator to do so; and (ii) to require or negotiate requirements different from and/or additional to the requirements in any final Agreements resulting from this RFP, without notice to other Proposers and without affording other Proposers any opportunity to revise their Proposals based on such different or additional requirements.

## 5 SECTION 5 - GENERAL CONTRACT PROVISIONS

### 5.1. Indemnification and Insurance

Contractor shall indemnify, defend and hold harmless the PEA and City of Philadelphia and each of their respective officers, employees and agents from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees and expenses), claims, suits, actions, damages, liability and expenses, occasioned wholly or in part by Contractor's act or omission or negligence or fault or the act or omission or negligence or fault of Contractor's agents, subcontractors, independent contractors, suppliers, employees or servants in connection with the Agreements, including, but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, intentional acts, failure to pay any subcontractors and suppliers, any breach of the Agreements, loss of data, data security breach, and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret).

In addition, on or before the commencement date of the Agreements, Contractor shall obtain the types and minimum amounts of insurance set forth in **Attachment K** and shall maintain those types and minimum amounts of insurance throughout the term of the Agreements. As a condition precedent to the effectiveness of the Agreements, Contractor must provide the City's Risk Manager with a certificate of insurance that shows Contractor has obtained the types and amounts of insurance required under **Attachment K**. Contractor shall cause copies of all certificates of insurance to be delivered to all the officials at the addresses specified in **Attachment K**.

## 5.2. General City Provisions and Certain Airport Contract Requirements

### 5.2.1. Non-Indebtedness

Contractor represents and warrants that Contractor, and all entities under common control with Contractor or controlled by it, are not as of the commencement date of the Agreements, indebted to the City. Contractor shall not at any time during the term of the Agreements be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), water bills, sewer bills, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. Contractor shall remain current during the term of the Agreements with all such payments and shall inform the City upon receipt of any notices of delinquent payments. In addition to any other rights or remedies available to the City under the Agreements, at law, or in equity, Contractor acknowledges that any breach or failure to conform to the Contractor's representation, warranty, and covenant in this Section may, at the option of the City, result in the termination of the Agreements. In addition, Contractor understands that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. § 4904.

Contractor shall cause its subcontractors (if any) to make a certification to the City similar to that made by Contractor above. Contractor shall include the provisions in this Section 5.2 in each subcontract under the Agreements, with appropriate adjustment for the name of the subcontractor.

### 5.2.2. Ethics Requirements (Executive Order 10-16: Prohibited Gifts to City Officials and Employees)

Contractor and its sub-licensees, contractors, and subcontractors must not offer or give, directly or indirectly, anything of value to any City official, officer or employee, including any Gift (as defined below), the receipt of which would violate Executive Order No. 10-16 issued by the Mayor of Philadelphia on October 26, 2016 under the circumstances set forth below.

Pursuant to Executive Order 10-16, no official or employee in the Executive and Administrative Branch of the City shall solicit or accept, directly or indirectly, a "Gift" from any person who, at the time or within twelve (12) months preceding the time a Gift is received:

- (a) is seeking, or has sought, official action from that officer or employee;
- (b) has operations or activities regulated by the officer's or employee's department, agency, office, board or commission, or, in the case of members of the Mayor's Cabinet, has operations or activities that are

- regulated by any department t, agency, office, board or commission within the Executive and Administrative branch;
- (c) has a financial or other substantial interest in acts or omissions taken by that officer or employee, which the officer or employee is able to affect through official action; or
- (d) is a “Registered Lobbyist” (as defined below).

Contractor understands and agrees that if it, or its sub-licensees, contractors, and subcontractors offers or gives anything of value to any City official, officer, or employee, the receipt of which violates Executive Order No. 10-16, Contractor is subject to sanctions with respect to future City contracts. The sanctions may range from disqualification from participation in particular City contract(s), to debarment, depending on the nature of the particular violation. The terms and duration of the sanctions will be determined (after consultation with the City’s Chief Integrity Officer) by the City’s Procurement Commissioner with respect to contracts subject to competitive bidding or by the City’s Director of Finance with respect to non-competitively bid contracts.

If Contractor or its sub-licensees, contractors, and subcontractors offer or give, directly or indirectly, anything of value to any City officer, director, or employee in violation of this Section, Contractor will be deemed to have committed an Event of Default (as defined below) under the Agreements and entitle the City to exercise any rights or remedies available to it under the Agreements, or at law and in equity. In addition, the City shall return or discard the item given to the City officer, director, or employee.

As used in this Section, “Gift” means a payment, subscription, advance, forbearance, rendering or deposit of money, services, entertainment, invitation, food, drink, travel or lodging or anything of value given to, or for the benefit of, a City officer or employee, unless consideration of equal or greater value is received. “Gift” shall not include a political contribution otherwise reportable as required by law, a commercially reasonable loan made in the ordinary course of business, such as a home mortgage loan, or a gift received from a family member of the officer or employee.

As used in this Section, “Registered Lobbyist” means any person that engages in lobbying on behalf of a principal for economic consideration, and is registered as such, pursuant to the requirements of Section 20-1202 of the Code, including an attorney at law while engaged in lobbying.

### **5.2.3. Tax Requirements**

Any vendor of goods, or provider of services, who submits a proposal and is awarded a contract by the City is subject to Philadelphia’s business tax ordinances and regulations. The Agreements are entered into in the City of Philadelphia, and Contractor’s delivery, sale, or rental of goods in the City, or performance of services in the City, is “doing

business” in the City and subjects Contractor to the City’s tax requirements, including without limitation one or more of the following taxes:

- (a) Business Income and Receipts Taxes
- (b) Net Profits Tax
- (c) City Wage Tax

Promptly following the commencement date of the Agreements, Contractor, if not already paying the taxes listed above, shall apply to the City’s Department of Revenue for a tax account number and to file appropriate business tax returns as required by applicable law. Applications may be submitted through the Business Services Portal at <http://business.phila.gov/Pages/Home.aspx> or to the Department of Revenue at: Municipal Services Building, Public Service Concourse, 1401 John F. Kennedy Blvd., Philadelphia, PA 19102. Questions about the application and the taxes should be directed to the Taxpayer Service Unit at: (215) 686-6600.

In addition to the City’s tax requirements, Contractor shall timely pay all Federal, Commonwealth, and local taxes, assessments, and levies, however characterized (collectively, “Assessments”) that apply to the Project, the Agreements, or Contractor’s activities under the Agreements. Contractor is solely liable for all late charges, interest, penalties, and fees arising from Contractor’s failure to timely pay all Assessments.

The City is not obligated at any time during the term of the Agreements to pay any Assessments related to the project, the Agreements, or the Contractor’s activities under the Agreements. Contractor’s failure to comply with the requirements of the Agreements regarding payment of Assessments, or the Contractor’s failure to otherwise pay an Assessment as required by applicable laws, will be deemed an Event of Default under the Agreements.

#### **5.2.4. Non-Discrimination**

The Agreements will be entered into under the U.S. Department of Transportation Federal Regulations 49 CFR Parts 21 and 23 and the terms of the Philadelphia Home Rule Charter, as each may be amended from time to time, and in performing under the Agreements, Contractor shall not discriminate or permit discrimination against any person because of race, color, religion, national origin, or sex. In the event of such discrimination, the City may, in addition to any other rights or remedies available under the Agreements, at law or in equity, terminate the Agreements forthwith.

Contractor agrees, in performing its obligations under the Agreements, to comply with the provisions of the Fair Practices Ordinance of the Code (Chapter 9-1100) and the Mayor’s Executive Order No. 4-86, as they may be amended from time to time, both of

which prohibit, inter alia, discrimination against persons with AIDS in employment and services.

In accordance with Chapter 17-400 of the Code, as it may be amended from time to time, Contractor agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes, a substantial breach of the Agreements entitling the City to all rights and remedies provided in the Agreements or otherwise available at law or equity.

Contractor agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner, which the Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Code. Failure to so cooperate shall constitute a substantial breach of the Agreements entitling the City to all rights and remedies provided herein or otherwise available at law or equity.

Contractor agrees to comply with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d - 2000d.7), Section 504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. § 794), The Age Discrimination Act of 1975, (42 U.S.C. §§ 6101 - 6107), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), and 45 C.F.R. Part 92, The Americans with Disabilities Act of 1990 (ADA) as they may be amended from time to time, which together prohibit discrimination on the basis of race, color, national origin, sex, handicap, age and religion.

#### **5.2.5. Non-Exclusivity in Vendor Selection**

Entities may participate as a team in multiple Proposals with the following exceptions:

- a. Entity is a Proposer
- b. Entity holds any direct equity interest in a Proposer

#### **5.2.6. Americans With Disabilities Act**

Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in the Agreements or from activities or services provided under the Agreements. As a condition of accepting and executing the Agreements, Contractor shall comply with all provisions of the Americans With Disabilities Act (the "Act"), 42 U.S.C. §§12101 - 12213, and all regulations promulgated thereunder, as the Act and regulations may be amended from time to time, which are applicable (a) to Contractor, (b) to the benefits, services, activities, facilities and programs provided in connection with the Agreements, (c) to the City, or the Commonwealth of Pennsylvania, and (d) to the benefits, services, activities, facilities and programs of the City or of the

Commonwealth, and, if any funds under the Agreements are provided by the federal government, which are applicable to the federal government and its benefits, services, facilities, activities, facilities and programs. Without limiting the applicability of the preceding sentence, Contractor shall comply with the “General Prohibitions Against Discrimination,” 28 C.F.R. Part 35.130, and all other regulations promulgated under Title II of “The Americans With Disabilities Act,” as they may be amended from time to time, which are applicable to the benefits, services, programs and activities provided by the City through contracts with outside Proposers.

#### **5.2.7. Termination for Airport Modifications**

Under the Agreements resulting from this RFP, the City shall have the absolute right to terminate the Agreements for Airport Modifications by providing no less than one hundred twenty (120) days’ notice to Contractor. “Airport Modifications” shall mean any modification, revision, supplement, amendment, or deletion to the Airport which requires modification, revision, supplement, or deletion to the Parcel as may be required or requested by the FAA, Transportation Security Administration (“TSA”), Pennsylvania Department of Transportation, the Environmental Protection Agency or any other Federal, Commonwealth or local regulatory agency having jurisdiction over the City or PNE.

#### **5.2.8. Publicity**

All publicity (including, but not limited to, news releases, news conferences, and commercial advertising) relating to this RFP and/or the services or products sought by this RFP and/or the Agreements entered into as a result of this RFP shall require the prior written approval of the Airport’s Chief Executive Officer or their designee.

#### **5.2.9. Supervening Law**

**5.2.9.1. No Exclusive Right.** Nothing contained in the Agreements shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act or any other statute, ordinance, regulation, or policy of any governmental agency having jurisdiction over PNE and/or the activities that take place at PNE.

**5.2.9.2. Subordinate to United States Agreements.** The Agreements shall be subordinate to the provisions of any existing or future agreement between the City and the United States relative to the operation or maintenance of PNE, the execution of which has been or may be required by the provisions of the Federal Aviation Act of 1958, as amended, or any future act affecting the operation or maintenance of PNE. Any provisions inconsistent with the

provision of such lease, or agreement, or assumption of control by the United States, shall be suspended.

**5.2.9.3. Required Changes.** In the event the FAA, or the TSA, requires, as a condition precedent to the granting of funds for the improvement of PNE, modifications, revisions, supplements, or deletions of any of the terms, conditions or requirements of the Agreements, then the successful Proposer agrees that such changes as may be reasonably required to enable the City to obtain said funds shall be permitted.

## 6 SECTION 6 – ADDITIONAL LEGAL TERMS AND CONDITIONS

### 6.1 Responsibility

Proposer shall assume all responsibility and obligation for the acts and omissions of its principals, members, directors, officers, employees, agents, representatives, subcontractors, and consultants, together with all other firms, agencies or other persons assisting with the planning, design, construction, or operation of the proposed system.

### 6.2 Governing Law

The terms and provisions of this RFP and any agreements related hereto shall be construed in accordance with the laws of the Commonwealth of Pennsylvania, and any and all litigation, proceedings, claims or actions commenced in connection with this RFP or any agreements related hereto shall be instituted in the appropriate courts in the Commonwealth of Pennsylvania.

### 6.3 Assignment

The successful Proposer may not sell, assign, transfer, or convey any rights or agreements associated with its Proposal, in whole or in part, without the prior written consent of the RFP Administrator.

### 6.4 Promotion

Unless specifically authorized in writing by the City and PEA, Proposer will have no right to use, and shall not use, the name of the City or PEA (a) in any advertising, publicity, promotion; nor (b) to express or to imply an endorsement of the Proposer's products or services.

## 6.5 Indemnification

Proposer agrees to hold harmless and indemnify the City and PEA, their officers, employees, agents, consultants and representatives, individually and collectively (for purposes of this section, the "Indemnified Parties"), from and against, and shall assume all liability for, any and all losses, expenses, demands, claims or damages of any kind whatsoever (including loss of use), including losses, expenses, or damages sustained by the Indemnified Parties, arising out of, related to, or in connection with the Proposer's preparation and submission of a Response and any actions Proposer takes in connection therewith, including, but not limited to, the actions of the Proposer's principals, members, directors, officers, employees, contractors, consultants, representatives and agents, and shall defend any suit or action brought against the Indemnified Party, based on any such alleged injury (including death) or damage (including loss of use), and shall pay all damages, judgments, costs, and expenses, including attorneys' fees in connection with said demands and claims resulting therefrom.