



REQUEST FOR PROPOSALS

Department of Community and Economic Development

REDEVELOPMENT OF 114-116 Elder Street

DUE DATE: Friday, November 20, 2020 at 5:00 p.m. ET

RFP NUMBER: RFP794CEDELDER

ACCEPTANCE PLACE: <https://cincinnati-oh.bonfirehub.com/>

All proposals must be submitted electronically via the City's Bonfire portal at the above link.

Issue Date: Friday, October 2, 2020

Requests for information related to this solicitation should be directed to:

Lyndsay Harvey, Senior Buyer, at lyndsay.harvey@cincinnati-oh.gov

NOTE: The City publishes information on the City of Cincinnati Internet web site at www.cincinnati-oh.gov, which includes the Cincinnati Municipal Code (CMC) and the information concerning the rules and regulations governing the City's Small Business Enterprise (SBE) Program and Minority/Women Business Enterprise (M/WBE) Program. Offerors may register as a City vendor online at <https://vss.cincinnati-oh.gov>.

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I. Introduction & Purpose

The City of Cincinnati (the “City”), through the Department of Community and Economic Development (“DCED”), is issuing this Request for Proposals (“RFP”) pursuant to the provisions of the Cincinnati Municipal Code (“CMC”), Chapter 321 and City Manager Administrative Regulation 23 for the development of the subject property (the “Site”) located at 114 and 116 Elder, Cincinnati, Ohio 45202. This RFP refers to the upper floors of the buildings only; it is the intent of the City to retain the first floor commercial space and basement.

The purpose of this RFP is to solicit development concepts from qualified developers or development teams (“Offerors”) for the subject property and select a proposal from a qualified Offeror. Selection of a preferred Offeror and subsequent award of the contract will result after the completion of this RFP process. The City may award a contract to the successful Offeror considering the total requirements for this procurement and what is “Most Advantageous to the City” in accordance with CMC Chapter 321. The City reserves the right to make no award pursuant to this RFP.

The City reserves the right to ask for additional information and clarification from or about any of the Offerors. The City reserves the right to perform investigations as may be deemed necessary by the City to assure that competent persons will be and are utilized in the performance of the Agreement and to verify the accuracy of the contents of the RFP.

The City will make no contribution of funding pursuant to this RFP. If an Offeror seeks City funding for their proposal, the Offeror must submit a separate application to the applicable funding program.

II. Site Information

Location: As shown in Exhibit I, the Site’s street address is 116 Elder Street (Parcel 094-0008-0276), located on the northern side of Elder between Elm and Race Streets. The Site is within the incorporated limits of City of Cincinnati in the Over-the-Rhine neighborhood.

Frontage, Size, and Shape: The Site has a 60-foot frontage along Elder Street. The Site is rectangular in shape with an area of approximately 4,800 square feet.

Existing Land Uses: The Site currently contains two-mixed use buildings with an operational commercial storefront space on the first floor and vacant dwelling units on the upper floors.

Visibility/Access: The Site has great visibility and access from Elder Street and Sellew Alley. The buildings are directly adjacent to Findlay Market. The area is well-connected with sidewalks running along the Elder Street frontage which allow for easy access to Over-the-Rhine and surrounding neighborhoods. Due to the Site’s proximity to Findlay Market, vehicular access is restricted on Elder Street.

Soil and Environmental: The Site is offered “as-is”. DCED makes no representations or warranties as to any environmental conditions.

Building: The Site consists of the upper floors of two buildings constructed circa 1870. Total finished area available to the Offeror is approximately 11,600 square feet. DCED makes no representations or warranties as to building conditions.

Property Advantages: The Site is uniquely located adjacent to Findlay Market, the oldest continuously operated public market in Ohio and one of Cincinnati's most beloved destinations. Findlay Market is a neighborhood center within the emerging Brewery District of the Over-the-Rhine Neighborhood and is the location of several breweries as well as numerous shops, restaurants, and bars.

The Brewery District is conveniently located between the two largest employment centers of the region in downtown and uptown Cincinnati. The Site is also within walking distance to shops, restaurants, and entertainment options in the Gateway District of Over-the-Rhine to the south. Two Streetcar stops are located just a block away on both Race Street and Elm Street, which provide convenient access to the Banks and downtown Central Business District of Cincinnati.

Cincinnati is a thriving city at the heart of Ohio's tristate area including Kentucky and Indiana. Located along the banks of the Ohio River, Cincinnati is a global business center offering superior accessibility to customers and suppliers across the world. It is the transportation, industrial, commercial, and cultural center for a region that is home to more than 2.1 million people. Home to eight Fortune 500 companies and more than 300 foreign-owned firms, Cincinnati is a world-class city.

III. **Site Goals**

This RFP refers to the upper floors of the buildings only. DCED intends to retain ownership of the first-floor commercial space and basement of the buildings. The Offeror will own and develop the upper floors and attic. An easement may be created to allow Offeror access to the basement.

Objectives: DCED seeks proposals to activate and rehabilitate the upper floor portion of the existing City-owned buildings at 114-116 Elder Street. Proposed development plans should reflect the important value of this Site to the surrounding community and encompass the goals set out in this RFP as indicated below:

- A. Facilitate the restoration and rehabilitation of the upper floors of a historic mixed-use building that helps support the surrounding urban character of the Findlay Market area.
- B. Create a residential, office, or mixed use development that aligns with the City's policies and goals, including those established by Plan Cincinnati (<https://www.cincinnati-oh.gov/planning/plan-cincinnati>).
- C. Apply a design approach that preserves the building's historic architectural elements and complies with the conservation guidelines of the Over-the-Rhine Historic District. No tear downs, rebuilds, or modifications to the outside of the building will be accepted.
- D. Demonstrate responsiveness to community and stakeholder preferences, including those established by the Brewery District Master Plan (https://www.cincinnati-oh.gov/planning/assets/File/2013_brewery_district_master_plan.pdf) and Over-the-Rhine Comprehensive Plan (https://www.cincinnati-oh.gov/planning/assets/File/2002_otr_comprehensive_plan.pdf).

Development Requirements:

- A. Offeror will be responsible for subdividing the lot through the City's Major Subdivision process prior to the sale of the property. Subdivision will create an upper floors air-lot (to be sold to Offeror) and a commercial air-lot consisting of the first floor and basement (to be retained by the City). More information on the Major Subdivision process can be found at <https://www.cincinnati-oh.gov/planning/subdivision-regulations/>.

- B. Greater Cincinnati Water Works (GCWW) will require Offeror to install a water service branch for the to-be-created upper floors air-lot that is separate from the existing water branch servicing the ground floor storefront. Offeror will be responsible for purchase and installation of all new water meters and branches servicing the residential air-lot. GCWW also requires the awardee to execute and record a private water service branch easement and Water Service Covenant with the City of Cincinnati.
- C. Access to the upper floors is restricted due to the removal of stairs during an earlier renovation. Offeror will be responsible for providing two means of egress for each unit. Offeror must work with Corporation for Findlay Market to ensure all means of egress are minimally intrusive to ground floor tenants. Permanent external staircases on the north side of the building facing Sellew Alley are prohibited.

IV. **Planning and Zoning Framework**

DCED encourages Offerors to understand the City's goals for the Site by referencing the following relevant plans and zoning:

Plan Cincinnati

Plan Cincinnati is intended to foster sustainable economic growth throughout the region by continually improving the City's quality of life and livability. Through this, Plan Cincinnati strives to set goals that foster a climate conducive to growth, investment, stability, and opportunity, cultivating the City's position as the most vibrant and healthiest part of our region, and becoming nationally and internationally recognized as a vibrant and unique city. Plan Cincinnati further encourages a full spectrum of housing options for residents, with a focus on housing quality and affordability. Plan Cincinnati further reinforces the walkability of neighborhoods and the ability of residents to age within their existing homes.

For more information concerning the Plan Cincinnati, visit: <https://www.cincinnati-oh.gov/planning/plan-cincinnati>.

Over-the-Rhine Comprehensive Plan

Created in 2002, the Over-the-Rhine Comprehensive Plan is designed to rebuild the housing and economic infrastructure of the neighborhood to create an economically and racially diverse community with the ability to sustain the long term. The plan promotes a goal of creating affordable housing for all income levels balanced with market rate housing.

To view the Over-the-Rhine Comprehensive Plan, please visit: https://www.cincinnati-oh.gov/planning/assets/File/2002_otr_comprehensive_plan.pdf.

Brewery District Master Plan

The Brewery District Master Plan contains the vision and coordinated strategy for redevelopment and repopulation of the Brewery District area. The Brewery District is contained within the much larger Over-the-Rhine Neighborhood. As such, the goals and strategies of the Brewery District Master Plan will be consistent with the Over-the-Rhine Comprehensive Plan.

To view the Brewery District Master Plan, please visit: https://www.cincinnati-oh.gov/planning/assets/File/2013_brewery_district_master_plan.pdf.

Zoning

The Site is zoned CC-P which is intended to maintain and enhance areas suitable for a wide variety of commercial and institutional uses along major transportation corridors and in shopping districts.

Development must reflect a complementary and compatible mix of uses to support the surrounding urban character and pedestrian environment.

A range of residential, commercial, and office uses are permitted with some limitations and restrictions. Please consult the full list of permitted uses and their restrictions at: https://library.municode.com/oh/cincinnati/codes/code_of_ordinances?nodeId=TIXIZOCOCI_CH14_09CODI_S1409-07LAUSRE.

Zoning information and guidelines can be found at the Buildings and Inspections website: <https://www.cincinnati-oh.gov/buildings/zoning-administration/>.

Please contact Beth Johnson at the Department of Buildings and Inspection at (513) 352-4848, beth.johnson@cincinnati-oh.gov for more information.

Over-the-Rhine Historic District

The Site is located within the locally designated Over-the-Rhine Historic District. Special consideration must be given to the conservation of the property's preexisting historic architecture. The property will be required to follow the Certificate of Appropriateness process and comply with the Over-the-Rhine Guidelines for all exterior changes to the property.

Historic conservation information and guidelines can be found at: <https://www.cincinnati-oh.gov/buildings/historic-conservation/>. Due to the unique nature of the Site, Offerors are encouraged to consult with the Department of Buildings and Inspection and Historic Conservation staff before submitting a proposal. Please contact Beth Johnson at the Department of Buildings and Inspection at (513) 352-4848, beth.johnson@cincinnati-oh.gov for more information and to schedule a consultation.

National Register Historic District

The property is a contributing property within the Over the Rhine National Register Historic District and is subject to a Section 106 review per the National Historic Preservation Act of 1966 for all changes to the property if any federal money is used on the property. This review must be completed before work commences on the property.

V. Public Engagement

As part of the RFP process, DCED intends to maximize transparency, build inclusion, and most importantly, give the public a chance to explore and participate in the shaping (or reshaping) of their community. In addition, DCED believes the success of any development project hinges on the inclusion and support of the local community. Offerors are strongly encouraged to work with the neighborhood Community Council to understand how the community's goals can be met in the Offerors' Proposals. Proposals should consider and incorporate stakeholder and community preferences, to the extent feasible and practical.

DCED will conduct the public engagement process according to the following schedule:

- **Community Information Session** – RFP is introduced to the Community Council for questions and public input. Offerors are encouraged to attend.
- **Pre-submission Meeting** – On-site meeting which allows Offerors and public to view Site and ask questions. Given the current pandemic, pre-submission meetings will be held by appointment only during regular business hours the week of October 26-30. All interested

Offerors and community members are invited to email Lyndsay Harvey at lyndsay.harvey@cincinnati-oh.gov to set up an appointment.

Pursuant to State of Ohio orders and local law regarding the wearing of facial coverings, anyone who participates in a pre-submission meeting on the subject City property must be wearing a facial covering. This includes City staff and members of the public. Anyone who refuses to wear a mask or authorized facial covering will be denied access to the subject City property, unless an exemption applies under applicable law.

VI. Timeline

- | | |
|--|---|
| • Release of RFP | October 2, 2020 |
| • Pre-submission Meeting | By Appointment Only,
week of October 26-30 |
| • Community Information Session | November 3, 2020 (tentative) |
| • Question Submission Deadline | November 6, 2020 at 5:00 p.m. ET |
| • RFP Submissions Due | November 20, 2020 at 5:00 p.m. ET |
| • Award Announced | January (tentative) |

VII. Submission Requirements

Qualified Offeror(s) are invited to submit qualifications and concept plans for the subject property based on their analysis of the existing Site and market. To achieve a uniform review process and a degree of comparability, proposals should be organized in the following order and contain the following information:

- a. **Title Page:** Include proposal title, name of firm, address, telephone number, name of contact person, date, and other relevant company information.
- b. **Capacity & Experience**
 - **Capacity and Experience Narrative:** Concise narrative describing Offeror's background, history, and construction experience, including comparable projects successfully completed by the Offeror and/or development team.
 - **Development Team:** Statement of the names and titles of key members of the development team, including as applicable: general contractor, architect, surveyor, engineer, investors, and other team members or subcontractors required for the completion of the project. Provide a resume for each team member.
 - **Offeror's Legal Structure:** Provide evidence of corporate status including, where applicable, Articles of Incorporation, or a partnership certificate and/or agreement. In addition, identify by name and title the entities holding an ownership interest of 20% or more.
- c. **Project Vision**
 - **Project Description:** One-page narrative describing what is proposed for construction including, as applicable: Site specifications, features, design concept, energy efficiency,

expected timetable for construction, and any other information that is relevant to the project. If the project incorporates affordable units, include income and rent limits as applicable.

- **Concept Site Plan:** Drawings showing preliminary ideas for building placement, parking layout, access drives, and landscaping as applicable. Preliminary building elevations should be included as well.
- **Site Goals:** One-page narrative explaining how the Offeror will address the objectives and development requirements as identified in the Site Goals section above. Include how the project meets the objectives of Plan Cincinnati, relevant zoning code, and other relevant neighborhood plans. Outline how the Offeror will incorporate visions and desires derived from relevant stakeholder, Community Council, and Community Development Corporation engagements.

d. **Financing Plan**

- **Financing Narrative:** Concise description of the anticipated general financing for the project. Include the offer price for the subject property.
- **Business Concept:** Concise description of target market and marketing plan for project.
- **Preliminary Sources and Uses:** Statement showing all sources of capital and expected uses in the proposed project.
- **Financial Statement:** Statement of Offeror's financial ability and resources at the Offeror's disposal.
- **Soft Financial Commitment Letter:** Letter(s) addressed to the City of Cincinnati, Department of Community and Economic Development. Letter should include the name, title, company, address and phone number of the individual providing the letter.

- e. **Economic Inclusion Goals:** Preliminary economic inclusion plan that includes opportunities to the maximum extent practicable for SBEs, WBEs, and/or MBEs through the Small Business Enterprise (SBE) Program (CMC Chapter 323) and Minority and Women Business Enterprise Programs (CMC 324) respectively. Describe previous success in achieving economic inclusion goals on projects of similar scope to the Site identified here in this RFP. If applicable, Offerors whose firms are certified through the Office of Economic Inclusion in the MBE, WBE or SBE Programs should submit proof of certification. Please refer to Cincinnati Municipal Code (CMC) chapters 323 and 324 for more information on the rules and regulations of the SBE and MBE/WBE programs. More information including eligibility criteria and the certification application can be found at <http://www.cincinnati-oh.gov/inclusion/registration-certification/business-enterprise-certification/>.

- f. **Required and Miscellaneous Forms:** Include the required forms identified in Section XI.

The proposal must be signed by a person who has the legal authority to contractually bind the Offeror. Unsigned proposals will be deemed non-responsive and will not be reviewed by DCED staff.

VIII. **Evaluation Criteria**

The Selection Committee will review and evaluate RFPs that are complete and received on or before the deadline. Each submission will be evaluated based on the criteria below and will be reviewed based

on the merit of the proposal to determine what is “Most Advantageous to the City”. A minimum threshold score of 50 points must be achieved in order to be eligible for an award.

a. **(25 points) Capacity & Experience**

Offerors should provide evidence of sufficient developer capacity through a brief history of the developer and development team. Offerors should include examples of previous projects with similar scope and complexity as envisioned in this project.

b. **(25 points) Project Vision**

Offerors should demonstrate how the proposal encompasses the objectives of Plan Cincinnati, relevant neighborhood plans, and the objectives and development requirements of this RFP as indicated in the Site Goals section. Additionally, Offerors should indicate their planned engagement with the relevant Community Council, community development corporations, and other neighborhood stakeholders.

c. **(30 points) Financing Plan**

Offerors should provide the information as requested above in the Financing Plan section under Submission Requirements. Offeror should have sufficient capacity to finance the development project as described in the proposal.

d. **(10 points) Economic Inclusion Goals**

Offerors should submit a preliminary economic inclusion plan that includes opportunities to the maximum extent practicable for SBEs, WBEs, and/or MBEs. Offerors should indicate any past successes in achieving economic inclusion goals. Offerors whose firms are certified through the Office of Economic Inclusion in the MBE, WBE or SBE Programs should submit proof of certification.

e. **(10 points) Other Advantages to the City**

The City will consider other advantages to the Offeror’s proposal, including its thoroughness and readiness to be transferred to a sale and development agreement.

IX. About the Department of Community and Economic Development

The City of Cincinnati’s Department of Community and Economic Development (DCED) strengthens neighborhoods and grows the City’s revenue base through investment in people and places. DCED is committed to executing a high-quality project at this Site which will be catalytic to the immediate neighborhood and may provide a variety of resources to ensure its success. These resources may include financial, informational, and technical assistance, and/or helping Offerors to navigate the legislative processes. Additionally, the City offers a variety of incentives and financial tools that can provide support to projects. Below is a brief overview of three of the available incentives. The City is able and willing to consider other types of assistance that may not be listed as a program below. For additional information about programs and services offered by DCED please visit: <http://choosecincy.com/>.

Notice of Funding Availability (NOFA): The Department of Community and Economic Development biannually announces a NOFA to provide development assistance for any type of housing project. NOFA provides gap financing under the Federal Community Development Block Grant (CDBG) program, the Federal HOME Investment Partnerships (HOME) program, and limited City Capital contributions. The City seeks NOFA development projects that will make sustainable

housing improvements to Cincinnati neighborhoods. Any use of Federal Funding through the City of Cincinnati will be required to complete an Environmental Review including but not limited to a Section 106 Review in compliance with the National Historic Preservation Act.

Community Reinvestment Area: The City of Cincinnati offers a Community Reinvestment Area (CRA) tax abatement program to companies and developers building or renovating a residential, commercial, industrial, or mixed-use facility in cases where the new or renovated facilities will result in job creation. Commercial and Multifamily CRA Tax Exemptions are property tax exemptions authorized by Ohio Statute 3735.65 and issued by municipalities that have established special CRA districts. The entire City of Cincinnati is one such district; therefore the subject property would be eligible for this program.

The American Dream Down Payment Initiative (ADDI) Program: ADDI is designed to assist first-time homebuyers who want to purchase a home within the City of Cincinnati. Applicants may be awarded up to \$5,000 in the form of a five-year forgivable loan that can only be used for a down payment and/or closing costs. The City is currently accepting ADDI applications. Please contact (513) 352-6146 for additional information.

X. Procurement Requirements

An electronic Proposal **must** be submitted through the City's Bonfire portal at <https://cincinnati-oh.bonfirehub.com/>. **Responses submitted by hard copy, mail, or e-mail will not be accepted.**

Important notes:

- Logging in and/or uploading your file(s) does not mean your response is submitted. Offerors must successfully upload all file(s) and must click the submit button before closing time.
- You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission. This will confirm that you have successfully submitted your Proposal.
- If a requested file is mandatory, you will not be able to complete your submission until the requirement is met.
- Uploading large documents may take time, depending on the size of the file(s) and your internet connection speed.
- Please note the type (.doc, .pdf, etc.) and number of files (one only or multiple) allowed. The maximum file size for upload is 1,000 MB. Please do not embed any documents within your uploaded files as they will not be accessible or evaluated.

For technical questions or issues related to your submission, please contact Bonfire directly at support@gobonfire.com or 1 (800) 354-8010, ext. 2. The support team is available Monday-Friday, 8:00 a.m. – 8:00 p.m. ET. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>.

The deadline for responding to this RFP and for submitting all related materials is:

Friday, November 20, 2020 at 5:00 p.m. ET

Late submissions will not be accepted. The proposal must be signed by a person who has the legal authority to contractually bind the Offeror.

Proposals can be withdrawn at any time if requested *in writing* until the deadline date, at which time Proposals will be considered firm and become the property of the City and will not be returned. By responding to this RFP, Offerors waive any challenge to the City's decisions.

By submitting this Proposal, the Offeror acknowledges that the City is governed by the Ohio Public Records Laws. Notwithstanding any statement to the contrary, the City's handling of any confidentiality obligations are subject to the limitations of this paragraph. Offeror's Proposal may be subject to disclosure under the Ohio Public Records Laws. The City shall have no duty to defend the rights of Offeror or any of its agents or affiliates in any records requested to be disclosed. The City can only hold as confidential information in the Proposal marked as such. If the Offeror has marked information in the Proposal as confidential, upon receipt of a public records request, the City will notify Offeror of its intent to release records to the requestor. The Offeror shall have a maximum of five (5) business days beginning with the date it receives notification to respond to the City by either accommodating the requestor, providing redacted copies of the documents, or pursuing legal remedies to stop the City's release of requested information. Said notification shall relieve the City of any further obligation under any claim of Offeror or any of its agents or affiliates in any jurisdiction in connection with the disclosure of such records. Offeror and its agents and affiliates may pursue legal and/or equitable remedies to stop or limit disclosure at their sole expense. Confidential or proprietary material must be clearly identified by the Offeror and easily separable from the rest of the Proposal. Such a request must provide written justification as to the basis for proprietary or confidentiality treatment.

The Offeror recognizes and agrees that the City will not be responsible or liable in any way for any losses that the Offeror may suffer from the disclosure of information or materials to third parties. Offerors submitting Proposals in response to and consistent with this RFP shall submit the required or miscellaneous forms in accordance with Section XI of the RFP.

Questions Concerning this RFP and Authorized City Point of Contact

All questions or requests for clarification must be submitted in writing no later than **Friday, November 6, 2020 at 5:00 p.m. ET. Questions and clarification requests may be emailed** to Lyndsay Harvey at lyndsay.harvey@cincinnati-oh.gov or submitted through the Bonfire portal at <https://cincinnati-oh.bonfirehub.com/>. Please reference "**RFP794CEDELDER**" in the subject field of the message. Questions received after the designated period may not be considered. Any response made by the City will be provided in writing via an addendum.

Offerors are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications regarding this RFP must be made to the City's contact person, or any other City representatives designated by the Chief Procurement Officer in writing.

Preventing Unfair Competitive Advantages

Fairness and transparency in the procurement process require that Offerors competing for a specific project do not derive a competitive advantage from having provided services related to the project/contract/work assignment in question. To that end, pursuant to Administrative Regulation No. 62, a firm, and each of its affiliates, hired to provide services for the preparation or implementation of a project shall be disqualified from any subsequent procurement solicitation to provide goods, works, or services resulting from or directly related to the firm's services for such preparation or implementation, unless an exception is made by the City Manager in writing.

Contractor Registration

The Offeror awarded the contract shall be a registrant under Vendor Self Service (VSS) at time of award. Go to <https://vss.cincinnati-oh.gov> to register.

Changes and Addenda to the RFP Document

It shall be the Offeror's responsibility to make the inquiry as to changes and addenda issued. All such changes or addenda shall become part of the contract and all Offerors shall be bound by such changes or addenda.

Offerors may download all addenda and other RFP documents from the Vendor Self Service system (<https://vss.cincinnati-oh.gov>) and should frequently return to the site to monitor for project-specific updates and addenda.

S/M/WBE Subcontracting

There is no specific S/M/WBE subcontracting goal for this project. However, the City desires that opportunities for City-certified SBEs, MBEs, and/or WBEs be generated to the maximum extent practicable. As such, S/M/WBE subcontracting will be one of the factors the City considers for award.

Offerors subcontracting any portion of the work must complete, sign and return the appropriate economic inclusion forms found in the "No Goals Inclusion Packet" with your proposal.

The "No Goals Inclusion Packet", which includes the applicable forms to be completed and included with the proposal, is available at: <http://cincinnati-oh.gov/inclusion/forms/subcontractor-inclusion-goal-packages-for-bids-rfps/>. Please click on the link called "No Goals Inclusion Packet" to download the appropriate forms.

Offeror is responsible for verifying that each S/M/WBE to be used on a contract is certified by the DEI as of the proposal due date. The S/M/WBEs named must be certified to provide the services that they are listed to perform, and the services must be required as part of the work on this contract. A directory of certified S/M/WBEs is available online at <https://cincinnati.diversitycompliance.com> or at the offices of DEI.

Additional Requirements

Once an Offeror is selected and negotiations are complete, the City and the selected Offeror will enter into a Sale and Development Agreement. This agreement will contractually obligate the City to sell the property and the Offeror to develop the land as proposed in their winning RFP Response.

Please note the Sale and Development Agreement will include an exhibit titled Additional Requirements, which articulates certain government requirements and obligations that may apply based on the nature of the proposed/winning RFP Response. This exhibit is furnished now for reference only. Selected Offerors shall evaluate their ability to comply with the Additional Requirements, as applicable, as a condition of the Sale and Development Agreement.

XI. Attachments

Exhibit A: Site Map (Informational Use Only)

Exhibit B: Site Photo (Informational Use Only)

Exhibit C: Offeror Corporate and Contact Information (Required with Proposal Submission)

Exhibit D: Affidavit of Accuracy and Signature Page (Required with Proposal Submission)

Exhibit E: Additional Requirements (Informational Use Only)

Exhibit F: Subcontracting Outreach Program

The “No Goals Inclusion Packet”, which includes the applicable forms to be completed and included with the proposal, is available at: <http://cincinnati-oh.gov/inclusion/forms/subcontractor-inclusion-goal-packages-for-bids-rfps/>. Please click on the link called “No Goals Inclusion Packet” to download the appropriate forms.

EXHIBIT A – Site Map

Site Map: 114-116 Elder Street



EXHIBIT B – Site Photo



EXHIBIT E: Additional Requirements (Informational Use Only)

Developer and Developer's general contractor shall comply with all applicable statutes, ordinances, regulations, and rules of the government of the United States, State of Ohio, County of Hamilton, and City of Cincinnati (collectively, "**Government Requirements**"), including the Government Requirements listed below, to the extent that they are applicable. Developer hereby acknowledges and agrees that (a) the below listing of Government Requirements is not intended to be an exhaustive list of Government Requirements applicable to the Project, Developer, or Developer's contractors, subcontractors or employees, either on the City's part or with respect to any other governmental entity, and (b) neither the City nor its Law Department is providing legal counsel to or creating an attorney-client relationship with Developer by attaching this Exhibit to the Agreement.

This Exhibit serves two functions:

(i) Serving as a Source of Information With Respect to Government Requirements. This Exhibit identifies certain Government Requirements that may be applicable to the Project, Developer, or its contractors and subcontractors. Because this Agreement requires that Developer comply with all applicable laws, regulations, and other Government Requirements (and in certain circumstances to cause others to do so), this Exhibit flags certain Government Requirements that Developers, contractors and subcontractors regularly face in constructing projects or doing business with the City. To the extent a Developer is legally required to comply with a Government Requirement, failure to comply with such a Government Requirement is a violation of the Agreement.

(ii) Affirmatively Imposing Contractual Obligations. If certain conditions for applicability are met, this Exhibit also affirmatively imposes contractual obligations on Developer, even where such obligations are not imposed on Developer by Government Requirements. As described below, the affirmative obligations imposed hereby are typically a result of policies adopted by City Council which, per Council's directive, are to be furthered by the inclusion of certain specified language in some or all City contracts. The City administration (including the City's Department of Community and Economic Development) is responsible for implementing the policy directives promulgated by Council (which typically takes place via the adoption of motions or resolutions by Council), including, in certain circumstances, by adding specific contractual provisions in City contracts such as this Agreement.

(A) Construction Workforce.

(i) Applicability. Consistent with the limitations contained within the City Resolutions identified in clause (ii) below, this Section (A) shall not apply to contracts with the City other than construction contracts, or to construction contracts to which the City is not a party. For the avoidance of doubt, this Agreement is a construction contract solely to the extent that it directly obligates Developer to assume the role of a general contractor on a construction project for public improvements such as police stations or other government buildings, public parks, or public roadways.

The Construction Workforce Goals are not applicable to future work (such as repairs or modifications) on any portion of the Project. The Construction Workforce Goals are not applicable to the purchase of specialty fixtures and trade fixtures.

(ii) Requirement. In furtherance of the policy enumerated in City Resolutions No. 32-1983 and 21-1998 concerning the inclusion of minorities and women in City construction work, if Developer is performing construction work for the City under a construction contract to which the City is a party, Developer shall use Best Efforts to achieve a standard of no less than 11.8% Minority Persons (as defined below) and 6.9% females (of whom at least one-half shall be Minority Persons) in each craft trade in Developer and its general contractor's aggregate workforce in Hamilton County, to be achieved at least halfway through the construction contract (or in the case of a construction contract of six months or more, within 60 days of beginning the construction contract) (collectively, the "**Construction Workforce Goals**").

As used herein, the following terms shall have the following meanings:

(a) “**Best Efforts**” means substantially complying with all of the following as to any of its employees performing such construction, and requiring that all of its construction subcontractors substantially comply with all of the following: (1) solicitation of Minority Persons as potential employees through advertisements in local minority publications; and (2) contacting government agencies, private agencies, and/or trade unions for the job referral of qualified Minority Persons.

(b) “**Minority Person**” means any person who is Black, Asian or Pacific Islander, Hispanic, American Indian or Alaskan Native.

(c) “**Black**” means a person having origin in the black racial group of Africa.

(d) “**Asian or Pacific Islander**” means a person having origin in the original people of the Far East or the Pacific Islands, which includes, among others, China, India, Japan, Korea, the Philippine Islands, Malaysia, Hawaii and Samoa.

(e) “**Hispanic**” means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural origin.

(f) “**American Indian**” or “**Alaskan Native**” means a person having origin in any of the original people of North America and who maintains cultural identification through tribal affiliation.

(B) Trade Unions; Subcontracts; Competitive Bidding.

(i) Meeting and Confering with Trade Unions.

(a) Applicability. Per City of Cincinnati, Ordinance No. 130-2002, this requirement is limited to transactions in which Developer receives City funds or other assistance (including, but not limited to, the City’s construction of public improvements to specifically benefit the Project, or the City’s sale of real property to Developer at below fair market value).

(b) Requirement. This Agreement may be subject to the requirements of City of Cincinnati, Ordinance No. 130-2002, as amended or superseded, providing that, if Developer receives City funds or other assistance, Developer and its general contractor, prior to the commencement of construction of the Project and prior to any expenditure of City funds, and with the aim of reaching comprehensive and efficient project agreements covering all work done by Developer or its general contractor, shall meet and confer with: the trade unions representing all of the crafts working on the Project, and minority, female, and locally-owned contractors and suppliers potentially involved with the construction of the Project. At this meeting, Developer and/or its general contractor shall make available copies of the scope of work and if prevailing wage rates apply, the rates pertaining to all proposed work on the Project. Not later than ten (10) days following Developer and/or its general contractor’s meet and confer activity, Developer shall provide to the City, in writing, a summary of Developer and/or its general contractor’s meet and confer activity.

(ii) Contracts and Subcontracts: Competitive Bidding.

(a) Applicability. This clause (ii) is applicable to “construction contracts” under Cincinnati Municipal Code Chapter 321. Municipal Code Chapter 321 defines “construction” as “any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than four thousand dollars and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority,” and “contract” as “all written agreements of the City of Cincinnati, its boards or commissions, prepared and signed by the city purchasing agent or a board or commission for the procurement or disposal of supplies, service or construction.”

(b) Requirement. If CMC Chapter 321 applies to the Project, Developer is required

to ensure that all contracts and subcontracts for the Project are awarded pursuant to a competitive bidding process that is approved by the City in writing. All bids shall be subject to review by the City. All contracts and subcontracts shall be expressly required by written agreement to comply with the provisions of this Agreement and the applicable City and State of Ohio laws, ordinances and regulations with respect to such matters as allocation of subcontracts among trade crafts, Small Business Enterprise Program, Equal Employment Opportunity, and Construction Workforce Goals.

(iii) Competitive Bidding for Certain City-Funded Development Agreements.

(a) Applicability. Pursuant to Ordinance No. 273-2002, the provision in clause (b) below applies solely where the Project receives in \$250,000 or more in direct City funding, and where such funding comprises at least 25% of the Project's budget. For the purposes of this clause (iii), "direct City funding" means a direct subsidy of City funds in the form of cash, including grants and forgivable loans, but not including public improvements, land acquisitions and sales, job creation tax credits, or tax abatements or exemptions.

(b) Requirement. This Agreement requires that Developer issue an invitation to bid on the construction components of the development by trade craft through public notification and that the bids be read aloud in a public forum. For purposes of this provision, the following terms shall be defined as set forth below:

(1) "Bid" means an offer in response to an invitation for bids to provide construction work.

(2) "Invitation to Bid" means the solicitation for quoted prices on construction specifications and setting a time, date and place for the submission of and public reading of bids. The place for the public reading of bids shall be chosen at the discretion of Developer; however, the place chosen must be accessible to the public on the date and time of the public reading and must have sufficient room capacity to accommodate the number of respondents to the invitation to bid.

(3) "Trade Craft" means (a) general construction work, (b) electrical equipment, (c) plumbing and gas fitting, (d) steam and hot water heating and air conditioning and ventilating apparatus, and steam power plant, (e) elevator work, and (f) fire protection.

(4) "Public Notification" means (a) advertisement of an invitation to bid with ACI (Allied Construction Industries) and the Dodge Report, and (b) dissemination of the advertisement (either by mail or electronically) to the South Central Ohio Minority Business Council, Greater Cincinnati Northern Kentucky African-American Chamber of Commerce, and the Hispanic Chamber of Commerce. The advertisement shall include a description of the "scope of work" and any other information reasonably necessary for the preparation of a bid, and it shall be published and disseminated no less than fourteen days prior to the deadline for submission of bids stated in the invitation to bid.

(5) "Read Aloud in a Public Forum" means all bids shall be read aloud at the time, date and place specified in the invitation for bids, and the bids shall be available for public inspection at the reading.

(C) City Building Code. All construction work must be performed in compliance with City building code requirements.

(D) Lead Paint Regulations. All work must be performed in compliance with Chapter 3742 of the Ohio Revised Code, Chapter 3701-32 of the Ohio Administrative Code, and must comply with OSHA's Lead in Construction Regulations and the OEPA's hazardous waste rules. All lead hazard abatement work must be supervised by an Ohio Licensed Lead Abatement Contractor/Supervisor.

(E) Displacement. If the Project involves the displacement of tenants, Developer shall comply with all Government Requirements in connection with such displacement. If the City shall become obligated to pay any relocation costs or benefits or other sums in connection with the displacement of tenants, under Cincinnati Municipal

Code Chapter 740 or otherwise, Developer shall reimburse the City for any and all such amounts paid by the City in connection with such displacement within twenty (20) days after the City's written demand.

(F) Small Business Enterprise Program.¹

(i) Applicability. The applicability of Municipal Code Chapter 323 (Small Business Enterprise Program) is limited to construction contracts in excess of \$5,000. Municipal Code Chapter 323 defines "contract" as "a contract in excess of \$5,000.00, except types of contracts listed by the City purchasing agent as exempt and approved by the City Manager, for (a) construction, (b) supplies, (c) services, or (d) professional services." It defines "construction" as "any construction, reconstruction, improvement, enlargement, alteration, repair, painting, decorating, wrecking or demolition, of any public improvement the total overall project cost of which is fairly estimated by Federal or Ohio statutes to be more than \$4,000 and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority." To the extent Municipal Code Chapter 323 does not apply to this Agreement, Developer is not subject to the various reporting requirements described in this Section (F).

(ii) Requirement. The City has an aspirational goal that 30% of its total dollars spent for construction and 15% of its total dollars spent for supplies/services and professional services be spent with Small Business Enterprises ("SBE"s), which include SBEs owned by minorities and women. Accordingly, subject to clause (i) above, Developer and its general contractor shall use its best efforts and take affirmative steps to assure that SBEs are utilized as sources of supplies, equipment, construction, and services, with the goal of meeting 30% SBE participation for construction contracts and 15% participation for supplies/services and professional services contracts. An SBE means a consultant, supplier, contractor or subcontractor who is certified as an SBE by the City in accordance with Cincinnati Municipal Code ("CMC") Chapter 323. (A list of SBEs may be obtained from the Department of Economic Inclusion or from the City's web page, <http://cincinnati.diversitycompliance.com>.) Developer and its general contractor may refer interested firms to the Department of Economic Inclusion for review and possible certification as an SBE, and applications may also be obtained from such web page. If the SBE program is applicable to this Agreement, as described in clause (i) above, Developer agrees to take (or cause its general contractor to take) at least the following affirmative steps:

- (1) Including qualified SBEs on solicitation lists.
- (2) Assuring that SBEs are solicited whenever they are potential sources. Contractor must advertise, on at least two separate occasions, both in local minority publications and in other local newspapers of general circulation, invitations to SBEs to provide services, to supply materials or to bid on construction contracts for the Project. Contractor is encouraged to use the internet and similar types of advertising to reach a broader audience, but these additional types of advertising cannot be used as substitutes for the above.
- (3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum SBE participation.
- (4) When needs permit, establishing delivery schedules that will encourage participation by SBEs.

(iii) Subject to clause (i) above, if any subcontracts are to be let, Developer shall require the prime contractor to take the above affirmative steps.

(iv) Subject to clause (i) above, Developer shall provide to the City, prior to commencement of the Project, a report listing all of the contractors and subcontractors for the Project, including information as to the owners, dollar amount of the contract or subcontract, and other information that may be deemed necessary by the City Manager. Developer or its general contractor shall update the report monthly by the 15th. Developer or its general contractor shall enter all reports required in this subsection via the City's web page referred to in clause (i) above or any successor site or system the City uses for this purpose. Upon execution of this Agreement, Developer and its general contractor shall contact the Department of Economic Inclusion to obtain instructions, the proper

¹ Note: DCED is currently evaluating revisions to this SBE section due to recent legislative changes adopted by Council. If DCED implements these policy changes prior to the execution of this Agreement, this section will be revised.

internet link, login information, and password to access the site and set up the necessary reports.

(v) Subject to clause (i) above, Developer and its general contractor shall periodically document its best efforts and affirmative steps to meet the above SBE participation goals by notarized affidavits executed in a form acceptable to the City, submitted upon the written request of the City. The City shall have the right to review records and documentation relevant to the affidavits. If affidavits are found to contain false statements, the City may prosecute the affiant pursuant to Section 2921.12, Ohio Revised Code.

(vi) Subject to clause (i) above, failure of Developer or its general contractor to take the affirmative steps specified above, to provide fair and equal opportunity to SBEs, or to provide technical assistance to SBEs as may be necessary to reach the minimum percentage goals for SBE participation as set forth in Cincinnati Municipal Code Chapter 323, may be construed by the City as failure of Developer to use best efforts, and, in addition to other remedies under this Agreement, may be a cause for the City to file suit in Common Pleas Court to enforce specific performance of the terms of this section.

(G) Equal Employment Opportunity.

(i) Applicability. Chapter 325 of the Cincinnati Municipal Code (Equal Employment Opportunity) applies (a) where the City expends more than \$5,000 under a non-construction contract, or (b) where the City spends or receives over \$5,000 to (1) employ another party to construct public improvements, (2) purchase services, or (3) lease any real or personal property to or from another party. Chapter 325 of the Municipal Code does not apply where the contract is (a) for the purchase of real or personal property to or from another party, (b) for the provision by the City of services to another party, (c) between the City and another governmental agency, or (d) for commodities such as utilities.

(ii) Requirement. If this Agreement is subject to the provisions of Chapter 325 of the Cincinnati Municipal Code (the City of Cincinnati's Equal Employment Opportunity Program), the provisions thereof are hereby incorporated by reference into this Agreement.

(H) Prevailing Wage. Developer shall comply, and shall cause all contractors working on the Project to comply, with all any prevailing wage requirements that may be applicable to the Project. In the event that the City is directed by the State of Ohio to make payments to construction workers based on violations of such requirements, Developer shall make such payments or reimburse the City for such payments within twenty (20) days of demand therefor. A copy of the City's prevailing wage determination may be attached to this Exhibit as Addendum I to Additional Requirements Exhibit (City's Prevailing Wage Determination) hereto.

(I) Compliance with the Immigration and Nationality Act. In the performance of its construction obligations under this Agreement, Developer shall comply with the following provisions of the federal Immigration and Nationality Act: 8 U.S.C.A. 1324a(a)(1)(A) and 8 U.S.C.A. 1324a(a)(2). Compliance or noncompliance with those provisions shall be solely determined by final determinations resulting from the actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by determinations of the U.S.

(J) Prompt Payment. The provisions of Chapter 319 of the Cincinnati Municipal Code, which provides for a "Prompt Payment System", may apply to this Agreement. Municipal Code Chapter 319 also (i) provides certain requirements for invoices from contractors with respect to the Prompt Payment System, and (ii) obligates contractors to pay subcontractors for satisfactory work in a timely fashion as provided therein.

(K) Conflict of Interest. Pursuant to Ohio Revised Code 102.03, no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the Project may have any personal financial interest, direct or indirect, in Developer or in the Project, and Developer shall take appropriate steps to assure compliance.

(L) Ohio Means Jobs. If this Agreement constitutes a construction contract (pursuant to the guidance with respect to the definition of that term provided in Section (A) above), then, pursuant to Ordinance No. 238-

2010: To the extent allowable by law, Developer and its general contractor shall use its best efforts to post available employment opportunities with Developer, the general contractor's organization, or the organization of any subcontractor working with Developer or its general contractor with the OhioMeansJobs Center, 1916 Central Parkway, Cincinnati, Ohio 45214-2305, through its Employer Services Unit Manager at 513-946-7200.

(M) Wage Enforcement.

(i) Applicability. Council passed Ordinance No. 22-2016 on February 3, 2016, which ordained Chapter 326 (Wage Enforcement) of the Cincinnati Municipal Code (the "**Wage Enforcement Chapter**"). The Wage Enforcement Chapter was then amended by Ordinance No. 96-2017, passed May 17, 2017. As amended, the Wage Enforcement Chapter imposes certain requirements upon persons entering into agreements with the City whereby the City provides an incentive or benefit that is projected to exceed \$25,000, as described more particularly in the Wage Enforcement Chapter. Cincinnati Municipal Code Section 326-5 requires that the language below be included in contracts subject to the Wage Enforcement Chapter.

(ii) Required Contractual Language. Capitalized terms used, but not defined, in this clause (ii) have the meanings ascribed thereto in the Wage Enforcement Chapter.

(a) This contract is or may be subject to the Wage Enforcement provisions of the Cincinnati Municipal Code. These provisions require that any Person who has an Agreement with the city or with a Contractor or Subcontractor of that Person shall report all Complaints or Adverse Determinations of Wage Theft and Payroll Fraud (as each of those terms is defined in Chapter 326 of the Cincinnati Municipal Code) against the Contractor or Subcontractors to the Department of Economic Inclusion within 30 days of notification of the Complaint or Adverse Determination.

(b) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to include provisions in solicitations and contracts regarding a Development Site that all employers, Contractors or Subcontractors performing or proposing to perform work on a Development Site provide an initial sworn and notarized "Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee and, within 30 days of an Adverse Determination or Complaint of Wage Theft or Payroll Fraud, shall provide an "Amended Affidavit Regarding Wage Theft and Payroll Fraud" on a form prescribed by the city manager or his or her designee.

(c) If this contract is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this contract is required to authorize, and does hereby specifically authorize, any local, state or federal agency, court, administrative body or other entity investigating a complaint of Wage Theft or Payroll Fraud against the Person (collectively "investigative bodies") to release to the City's Department of Economic Inclusion any and all evidence, findings, complaints and determinations associated with the allegations of Wage Theft or Payroll Fraud upon the City's request and further authorizes such investigative bodies to keep the City advised regarding the status of the investigation and ultimate determination. If the investigative bodies require the Person to provide additional authorization on a prescribed form or in another manner, the Person shall be required to provide such additional authorization within 14 days of a request by the City.

(d) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall include in its contracts with all Contractors language that requires the Contractors to provide the authorizations set forth in subsection (c) above and that further requires each Contractor to include in its contracts with Subcontractors those same obligations for each Subcontractor and each lower tier subcontractor.

(e) If this Agreement is subject to the Wage Enforcement provisions of Chapter 326 of the Cincinnati Municipal Code, the Person entering into this Agreement shall post a conspicuous notice on the Development Site throughout the entire period work is being performed pursuant to the Agreement indicating that

the work being performed is subject to Cincinnati Municipal Code Chapter 326, Wage Enforcement, as administered by the City of Cincinnati Department of Economic Inclusion. Such notice shall include contact information for the Department of Economic Inclusion as provided by the department.

(f) Under the Wage Enforcement provisions, the city shall have the authority, under appropriate circumstances, to terminate this contract or to reduce the incentives or subsidies to be provided under this contract and to seek other remedies, including debarment.

(N) Americans With Disabilities Act: Accessibility.

(i) Applicability. Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the “**Accessibility Motion**”). This motion directs City administration, including DCED, to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the “**ADA**”), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.

(ii) Requirement. In furtherance of the policy objectives set forth in the Accessibility Motion, (A) the Project shall comply with the ADA, and (B) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building(s) is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then Developer shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “**Contractual Minimum Accessibility Requirements**” means that a building shall, at a minimum, include (1) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (2) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.

(O) Electric Vehicle Charging Stations in Garages.

(i) Applicability. Cincinnati City Council passed Ordinance No. 89-2017 on May 10, 2017. This ordinance requires all agreements in which the City provides any amount of “qualifying incentives” for projects involving the construction of a parking garage to include a provision requiring the inclusion of certain features in the garage relating to electric vehicles. The ordinance defines “qualifying incentives” as the provision of incentives or support for the construction of a parking garage in the form of (a) the provision of any City monies or monies controlled by the City including, without limitation, the provision of funds in the form of loans or grants; (b) the provision of service payments in lieu of taxes in connection with tax increment financing, including rebates of service payments in lieu of taxes; and (c) the provision of the proceeds of bonds issued by the City or with respect to which the City has provided any source of collateral security or repayment, including, but not limited to, the pledge of assessment revenues or service payments in lieu of taxes. For the avoidance of doubt, “qualifying incentives” does not include (1) tax abatements such as Community Reinvestment Area abatements pursuant to Ohio Revised Code 3735.67, et seq., or Job Creation Tax Credits pursuant to Ohio Revised Code 718.15; (2) the conveyance of City-owned real property for less than fair market value; and (3) any other type of City support in which the City provides non-monetary assistance to a project, regardless of value.

(ii) Requirement. If the applicability criteria of Ordinance No. 89-2017 are met, then the following requirements shall apply to any parking garage included within the Project: (a) at least one percent of parking spaces, rounding up to the nearest integer, shall be fitted with Level 2 minimum 7.2 kilowatt per hour electric car charging stations; provided that if one percent of parking spaces is less than two parking spaces, the minimum number of parking spaces subject to this clause shall be two parking spaces; and (b) the parking garage’s electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer, and the electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to

provide 7.2 kilowatts of electrical capacity to at least five percent of the parking spaces of the garage, rounding up to the nearest integer.

(P) Certification as to Non-Debarment. Developer represents that neither it nor any of its principals is presently debarred by any federal, state, or local government agency. In completing the Project, Developer shall not solicit bids from any contractors or subcontractors who are identified as being debarred by any federal, state, or local government agency. If Developer or any of its principals becomes debarred by any federal, state, or local government agency during the term of this Agreement, Developer shall be considered in default under this Agreement.