



REQUEST FOR PROPOSALS

For Partnering with

Buncombe County and

the City of Asheville in

the

Development Services for

[Duke Energy Green Source Advantage Program](#)

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I. Overview

1. Purpose of Request for Proposal

Buncombe County government and the City of Asheville invite interested parties to respond to this Request for Proposal (RFP) as they consider development of utility-scale solar installation to serve a portion of their electricity need and to reduce the local government's carbon intensity. The City/County will evaluate partnering with a selected solar developer in responding to Duke Energy's Green Source Advantage (GSA) program's RFP.

2. The County of Buncombe

The County's Sustainability Office is responsible for leading the implementation of the strategies designed to reach its goal of using 100% Renewable Energy for County operations by 2030. The Sustainability Office works with other County departments and partners around the County to improve quality of life in all Buncombe neighborhoods, reduce the County's carbon emissions, and make Buncombe resilient. The Office of Sustainability recently went through a planning process designed to develop strategies to meet the goals of the

[RESOLUTION OF THE BUNCOMBE COUNTY COMMISSION TO REACH 100% RENEWABLE](#). This resolution set aggressive and aspirational internal and communitywide goals for the County. Specifically, it strives to have County operations be fueled by 100% renewable sources by 2030. It also sets a community-wide goal for Buncombe to become 100% a renewable County by 2042. The City of Asheville has a similar 100% renewable goal for their [internal operations by 2030](#).

3. Duke Energy Green Source Advantage Program

The following information is a high-level overview of the [Duke Energy GSA](#) program abased on available information. The full program details and draft Duke GSA program RFP can be found in Duke Energy's March 18, 2019 GSA Compliance Filing to the North Carolina Utilities Commission in Appendix 2.

- i. Program offered for five (5) years or until December 31, 2022, whichever is later
- ii. Self-Supply - Customer negotiates directly with renewable suppliers for renewable energy credits (RECs) associated with the selected facility and **must be in the DEP Distribution or Transmission Queue** to demonstrate project readiness and to qualify.
- iii. Capacity:
 - a. 100 MW of new renewable capacity reserved for major military installations
 - b. 250 MW of new renewable capacity reserved for the University of North Carolina Systems
 - c. 250 MW for all other large business customers (160 MW DEC and **90 MW DEP**)
 - d. Contracted amount of capacity capped at no more than 125% of the maximum annual peak demand of the eligible customer
 - e. Capacity for military and UNC systems is reserved for three (3) years; available capacity at expiration is made available to other eligible customers
- iv. Eligibility:
 - a. New and existing loads
 - b. Loads of >1 MW or aggregation of multiple sites > 5 MW (must be within same service territory)
 - c. Participation is on a "first-come, first-served" basis
- v. Participation Options:
 - a. Two (2) to twenty (20) year contract terms
 - b. Bill credit levels:
 - i. Avoided Cost five (5) year
 - ii. Avoided Cost two (2) year
 - iii. Hourly a Day Ahead Rate

4. Background

The City/County are committed to supporting wise investments today that will yield significant energy and cost savings and carbon footprint reductions in future years. The local governments value the role that renewable energy can play in climate adaptation, energy reliability, long-term strategic energy procurement, reducing Peak Load Contribution, fulfilling REC requirements, stimulating the local economy and creating jobs. Implementing a renewable energy project through the GSA program would add value to those areas.

5. Local Govt. Energy Profiles

During fiscal year 2018 the County facilities consumed approximately 17,000 MWh of electricity and approximately 403,000 therms of natural gas. The aggregated demand for the County's facilities is approximately 25 MW. The City of Asheville consumed approximately 16,00 MWh of electricity and 253,000 therms of natural gas and has a very similar aggregated demand. The County and City purchase their electricity through Duke Energy Progress (DEP) apart from just a few accounts served by French Broad Electric and Haywood EMC; natural gas is provided by Dominion.

II. Scope of Work

1. Project Details

This RFP seeks Proposers willing to supply solar electric energy under a long-term power purchase agreement (PPA) from one or more solar power plant(s) located in the North Carolina DEP territory with a strong preference for a solar power plant (Plant) located as close to Buncombe as possible. The City/County will then evaluate partnering with a selected solar developer in responding to the Duke Energy GSA program's RFP. The City/County intends to acquire the RECs from the output and either sell at market price or voluntarily retire in support of the City/County's sustainability goals at the option of the County. The City/County will not own or manage the facility, but will commit to a long-term PPA for its output. The PPA contemplated by this RFP is intended to add to the City/County's commitment to renewable energy and lower our carbon intensity. The City/County is requesting proposals for a Plant that will supply a larger percentage of our electricity load with clean, renewable energy at a competitive price. The City/County prefers projects to be cost-effective when applying a more holistic accounting method to account for carbon costs, education and workforce development benefits, etc. consistent with City/County goals. The City/County is interested in contracting for up to twenty (20) years. The County is interested in purchasing approximately 20,000 MWh of renewable energy and associated RECs annually, but will consider solar development projects outside of that range. The City/County are exploring partnerships with other potential buyers, which would mean a larger Plant. Information on how projects can maximize co-benefits including reducing carbon pollution, creating local and clean energy jobs, or creating opportunities for minority and women owned business enterprises should be included with proposals. Entering a long-term PPA with a Plant(s) near Buncombe would provide these co-benefits more directly to the Buncombe region. Restrictions and limitations specific to local government organizations will be critical to structuring a contract. Per North Carolina law, the City/County must procure large scale renewable energy through the Duke Energy GSA program. Please refer to Duke Energy's March 18, 2019 Green Source Advantage Compliance Filing to the North Carolina Utilities Commission in Appendix 2.

2. Project Objectives

The City/County have specific goals (listed in priority order below) in issuing this solicitation for the development of a Plant:

- i. To provide the City/County with long-term price stability for a material portion of its energy supply portfolio that will improve carbon intensity for its operations.
 - ii. To demonstrate the City/County's commitment to clean and renewable energy by taking steps that will result in cleaner air, lower greenhouse gas emissions and sustainable energy sources for the citizens of Buncombe and fellow North Carolinians and to enhance the public awareness of those actions.
- iii. To source the renewable energy from a Plant within DEP and as close as possible proximity to Buncombe's County limits such to encourage local economic and community benefits including employment opportunities from disadvantaged business enterprises and a diverse workforce. Proximity to Buncombe will also provide a greater impact on actual County emissions in the long run by influencing the carbon intensity of the EPA's RFC greenhouse gas emissions factor.

III. Procurement Process

1. Schedule

A general outline of the procurement schedule and project process has been provided below. The County will make every effort to hold to this schedule:

Date	Event	Responsible Party
8/20/2019	RFP Issued	County
8/29/2019	Deadline for submission of Clarifying Questions: Proposers are permitted to submit written questions, but only for purposes of clarifying this RFP. All submissions must be e-mailed to Jeremiah LeRoy at jeremiah.leroy@Buncombecounty.org . Questions are due by 5:00 p.m. EST on August 20, 2019.	Proposers
9/3/2019	Response to clarifying questions posted at https://www.buncombecounty.org/Governing/Depts/Purchasing/default.aspx	County
9/10/2019	Proposal Submission: Proposal must be received by 2:00 p.m. EST on September 2, 2019 at 200 College St, Fourth Floor, Asheville, NC, 28801. Proposals should be addressed to Buncombe County Office of Sustainability, Attn: Jeremiah LeRoy	Proposers
9/20/2019	*Notice of Selection	County
TBD	*Respond to Duke Energy Green Source Advantage Program RFP	County & Selected Proposer

***If applicable: After further analysis of proposer offers, the City/County may choose NOT to participate in the GSA program.**

2. Submission of Proposals

One (1) electronic copy of the narrative on a flash drive in searchable Adobe Acrobat .pdf format, one (1) electronic copy of the bid sheet in excel format and one (1) unbound original and complete Proposal signed in ink by a company official authorized to make a legal and binding offer along with the corporate seal shall be submitted to the address listed in Section III.1 above by September 10, 2019, on or before but no later

than 2:00 p.m. EST. Late submissions will not be accepted. The "original" Proposal and the digital version thereof shall be complete and unabridged, and shall not refer to any other copy of the signed/sealed original for any references, clarifications, or additional information. When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the County. Proposals sent by fax will not be accepted. Do not arrive at the Buncombe Office of Sustainability on the Proposal due date for the purposes of reviewing your competitor's Proposals. The Proposals will not be read aloud or made available to inspect or copy until County Commission approves a partnership with the selected proposer under this RFP and any trade secret issues have been resolved.

3. Correction of Errors

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Proposer further agrees that in the event of any obvious errors, the County reserves the right to waive such errors in its sole discretion. The County, however, has no obligation under any circumstances to waive such errors.

4. Evaluation

As part of the evaluation process, the County and City's Sustainability Offices and selection committee may engage in discussions with any Proposer. Discussions might be held with individual Proposers to determine in greater detail the Proposer's qualifications, to explore with the Proposer the scope and nature of the required Scope of Work, to learn the Proposer's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the City/County. The County may in its discretion require one or more Proposers to make presentations to the Sustainability Office and selection committee for an interview. During such interview, the Proposer may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the County deems appropriate. Proposers will be notified in advance of the time and format of such meetings. Since the City/County may choose to award the Contract without engaging in discussions or negotiations, the Proposals submitted shall define the Proposer's best offer for performing the Scope of Work described in this RFP.

IV. Proposal Format

The City/County desires all Proposals to be identical in format to facilitate comparison. Although this format may represent departure from the Proposer's preference, we requires strict adherence to the format. The Proposal will be in the format described below:

- i. Cover letter as requested in Subsection 1.1;
- ii. Executive Summary as requested in Subsection 1.2;
- iii. Plant Description and Timeline as requested in Subsection 1.3;
- iv. Bid Sheet in Excel format as requested in Subsections 1.3.6 and 1.5.1;
- v. Project Team Experience and Relevant Project Descriptions as requested in Subsection 1.4;
- vi. Financial and Business Experience Summary as requested in Subsection 1.5;
- vii. Co-benefits as requested in Subsection 1.6;
- viii. Alternative Proposals as requested in Subsection 1.7

All Proposals shall be 8 1/2" x 11" format with all standard text no smaller than eleven (11) points. Proposals are limited to a maximum of 25 printed numbered pages. Required forms, resumes, tabs/dividers, and the cover letter do not count toward the page limit. All submissions should use double-sided copying and be unbound with tab dividers corresponding to the content requirements specified below. Each Proposer shall also deliver an electronic copy of its Proposal on a thumb drive including the entire Proposal in a searchable Adobe Acrobat .pdf format. Proposers are required to organize the information requested in this RFP in accordance with the format outlined. Failure of the Proposer to organize the information required by this RFP as outlined may result in the City/County,

at their sole discretion, deeming the Proposal non-responsive to the requirements of this RFP. The Proposer, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

1. Proposal Content

1.1 Cover Letter

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents on behalf of the Proposer. The cover letter shall provide the name, address, telephone and facsimile numbers of the Proposer along with the name, title, address, telephone and facsimile numbers of the executive that has the authority to contract with the City/County. Each Proposer shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: "The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the County, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the County as to any material facts."

1.2 Executive Summary (maximum 4 pages)

Summarize the major factors or features of the Proposal, including any conclusions, assumptions, and generalized recommendations the Proposer desires to make. It should be designed specifically for use by individuals that may not have a technical background. It should provide an overview of the Plant, pricing proposal, the project timeline, and include a summary of the firm's experience with similar projects.

1.3 Plant Description and Timeline

1.3.1 *Plant Description*

Provide a high-level overview of the Plant including:

- Plant (project) name(s).
- Nameplate capacity (in MW) of entire Plant. If the Plant has phases, provide the capacity of the phase you propose for the County.
- Brief description of the technology to be used (e.g., "ground-mounted single-axis tracking PV manufactured by YY").

1.3.2 *Plant location*

Provide the location of the proposed Plant including Longitude and latitude of the Plant site, and the name of the nearest County or town. The Plant must be in the DEP territory with a strong preference for a Plant located as close to Buncombe as possible. The City/County will NOT consider Plants that are currently operating.

1.3.3 *Development status of the Plant*

A narrative description of the status of the Plant's development, including an anticipated schedule of any major agreements, studies, or permits (including land use permits and interconnection) needed or already in place. The site must be in the DEP Distribution or Transmission queue and **must have a completed system impact study:**

(<https://www.duke-energy.com/business/products/renewables/generate-your-own/interconnection-queue>).

Include a description of Proposer's control of the Plant's site (own vs. lease). If the site is leased, describe the remaining term of the lease(s) and any material conditions related to the lease(s). The Proposer should clarify their intent for ownership of the

Plant and state any intentions to sell the Plant following construction or thereafter for the lifetime of the agreement.

1.3.4 *Plant Schedule and Commercial Date*

Provide a summary schedule for the Plant and Contract signing. Any Contract will require County Commission and City Council approval and the Plant must provide a commercial operation date no sooner than July 2020 and a Guaranteed Start Date of January 1, 2021.

1.3.5 *Renewable attributes*

Provide a summary of renewable energy features attributable to the Plant. The City/County must obtain title to all RECs associated with the County's purchase of renewable electricity from the Plant. Responsibility to register, track, input and manage the creation of RECs shall be the responsibility of the Proposer prior to their transfer to the County. Identify if Proposer can provide certification or additional attributes associated with the renewable energy attributes (Green-e®, etc.).

1.3.6 *Expected output*

Provide a summary electricity generation profile of the Plant in both data and graphs. The Plant must have sufficient capacity to supply the City/County roughly 20,000 MWh of renewable energy annually (approximately 10,000 MWh for each the City and County). The Proposal must specify expected output. The Proposer may provide options for a Plant and Contract with a guaranteed minimum output. The Proposer may also provide an option for additional capacity as the City/County may consider a partnership with other potential buyers. In addition, provide the following in **Appendix 1:**

- Expected annual generation (in MWh) factoring in deteriorating conversion efficiencies.
- P90 Hourly Generation Profile

1.4 Project Team and Experience

Submit an organizational chart that clearly identifies the roles and relationships of all key team members.

1.4.1 *Organization Chart*

Submit an organizational chart that clearly identifies the roles and relationship of all key team members and current planned subcontractors. Demonstrate, with narrative and references that team has satisfactorily completed similar Plants in the past. **Notify the County and explain claims of any kind which may be pending against such work.**

1.4.2 *Team Member Qualifications*

1.4.3 Provide resumes showing the relevant experience, qualifications and educational background of up to ten (10) individual team members assigned to this project. Demonstrate, with narrative and references that team members and personnel have satisfactorily performed similar work in the past. *Project Work Plan and Milestones* Describe your proposed management plan for building the Plant (if necessary).

1.4.4 *Safety Report*

Submit a record of your firm's relevant experience related to safety during construction and operations.

1.4.5 *Project History and Client References*

Provide at least 3 (three) and no more than 5 (five) client references. Each client reference shall include the following information: Plant Name, Location, Type of Plant, Size, Output, Capacity Factor, Total Project Dollar Amount (installed project costs or PPA terms), Construction Start and End Dates; Personnel associated with this project and their specific roles and responsibilities (limit to those proposed for this project); Current name, title, telephone and email addresses of a representative with whom your firm did business on the project.

1.4.6 *Subcontractor Qualifications*

Provide background information for each of the identified subcontractors who will be involved on this project during construction or operation. Information should include the following:

- Firm's Name, Type Location, Project Contact(s), Federal EIN, Year Firm was Established, Parent Company
- Firm History on similar projects, including contract values
- Resumes of the principal individuals who will be directly involved in this project
- Firm's previous history working with the Proposer (if applicable)
- Information on whether the company is a M/W/DBE as registered with the County of Buncombe or other organization

1.5 Financial and Business Experience Summary

1.5.1 Description of Financial Terms

Please provide the following in the RFP Submittal Excel Workbook in Appendix 1:

- Proposed Plant location (lat, lon)
- Fully functional financial model showing: year over year PPA price, expected annual production, and total cost. Make sure to show modelling without an escalator, of ten (10), fifteen (15) and twenty (20)-year terms.

1.5.2 Descriptions of Proposer's financial strength and capabilities

Provide a narrative description of the sources of financing for the development of the Plant, and identification of the entity that will be the Plant's controlling owner. Additionally, provide:

- the total number of renewable energy projects placed in service by Proposer, including the capacity, location, and type
- Proposer's financial capacity to secure equity for the project and manage all elements of the project development (including construction).
- Provide Proposer's credit rating from each rating agency if available.

If applicable, provide necessary documents for the County to perform all diligence required to obtain comfort with the parent guaranty, ownership and/or LLC structure provided by Proposer as well as sources for the termination payment owed by Proposer during an event of partial completion.

1.5.3 Descriptions of Plant Development Risks

As available, please provide the following:

- Independent engineer report performed by a reputable independent engineering firm satisfactory to the City/County
- Environmental study performed by a reputable firm satisfactory to City/County
- Proof of insurance with adequate coverage for asset replacement value in the event of a material loss
- Financing plan and Letters of Intent with various lenders and tax equity investors
- Operation and Maintenance Plan for the Plant.

1.5.4 Disclosure of Conflicts, Claims or other Matters

Disclose any work for another entity which may impair the ability to perform the scope and responsibilities under this RFP. Disclose any outstanding claims or other matters which may impair the ability to perform, whether financial or otherwise.

1.6 Co-benefits

Describe local economic or community benefits resulting from the project implementation including:

- Employment opportunities from disadvantaged business enterprises and a diverse workforce
- Educational opportunities offered to the community
- Availability of detailed generation data that the County could use in reporting and press releases • Unique environmental or economic considerations that distinguish the facilities
- Other relevant details the respondent would like to provide.

1.7 Alternative Proposals

Proposers may provide alternative solutions to reach the project goals as outlined above including options that reach commercial operation at a later date or that provide renewable energy to the County through other means. Any alternative proposal must include a full description of the solution (as outlined in the technical solution section above) to be considered by the County.

V. Selection Criteria

Selection will be based on the following criteria, reviewed in an evaluation process conducted by the County and its experts. These criteria are listed in order of priority.

- i. Best value based on review of cost proposal for proposed solution and strengths, weaknesses, opportunities, and threats
- ii. Proposal's ability to meet the Project Objectives as described above in Section II.2.
- iii. Qualifications of Proposer

VI. Conditions

1. Accuracy of RFP and Related Documents.

The City/County assume no responsibility for conclusions or interpretations derived from the information presented in this RFP, or otherwise distributed or made available during this selection process. In addition,

the City/County will not be bound by or be responsible for any explanation, interpretation or conclusions of this RFP or any documents provided by the City or County other than those provided by the City/County through the issuance of addenda. In no event may a Proposer rely on any oral statement by the City or County or its agents, advisors or consultants, including the City or County's Representative.

Should a Proposer find discrepancies or omissions in this RFP or any other documents provided by the City or County, the Proposer should immediately notify the County of such potential discrepancy in writing, and a written addendum may be issued if the County determines clarification necessary. Each Proposer requesting an interpretation will be responsible for delivering such requests to the County Representative as directed in Section II of this RFP.

2. The County's Rights and Options

The City and County reserve the following rights, which may be exercised at the County's sole discretion:

- i. To supplement, amend, substitute or otherwise modify this RFP at any time;
- ii. To cancel this RFP with or without the substitution of another RFP;
- iii. To take any action affecting this RFP, this RFP process, or the services or facilities subject to this RFP (collectively, the "Scope of Work") that would be in the best interests of the County;
- iv. To issue additional requests for information;
- iv. To require one or more Proposers to supplement, clarify or provide additional information for the County to evaluate the Proposals submitted;
- v. To conduct investigations with respect to the qualifications and experience of each Proposer;
- vi. To waive any defect or irregularity in any Proposal received;
- vii. To reject any or all Proposals;
- ix. To share the Proposals with City and County employees other than the Evaluation Committee or advisory committees as deemed necessary;
- x. To award all, none, or any part of the Scope of Work that is in the best interest of the City/County, including without limitation award one or a portion of the Solar Projects proposed by a Proposer, or multiple Solar Projects to multiple Proposers, or any combination thereof, which may be done without or without re-solicitation.
- xi. To discuss and negotiate with selected Proposer(s) any terms and conditions in the Proposals including but not limited to financial terms; and
- xii. To enter into any agreement deemed by the City/County to be in the best interest of the City/County.

3. Expense of Submittal Preparation

The City/County accepts no liability for the costs and expenses incurred by the Proposers in responding to this RFP, in preparing responses for clarification, in attendance at interviews, participating in contract development sessions, or in meetings and presentations required for the contract approval process. Each Proposer that enters the selection process shall prepare the required materials and submittals at its own expense and with the express understanding that the Proposer cannot make any claims whatsoever for reimbursement from the City or County for the costs and expenses associated with the procurement process.

4. Proposal Conditions

The following terms are applicable to this RFP and the Proposer's Proposal.

- i. RFP Not an Offer

This RFP does not constitute an offer by the City or County. No binding contract, obligation to negotiate, nor any other obligation shall be created on the part of the City or County unless the City/County and the Proposer execute a Contract. No recommendations or conclusions from this RFP process concerning the Proposer shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law or statutory law of North Carolina.

ii. Right to Terminate Discussions

The Proposer's participation in this process might result in the City/County selecting the Proposer to engage in further discussions. The commencement of such discussions, however, does not signify a commitment by the City or County to execute a Contract or to continue discussions. The City and County can terminate discussions at any time and for any reason.

iii. Requirement for Representation as to Accuracy and Completeness of Proposal

Each Proposer shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **"The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the County, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the County as to any material facts."**

iv. Trade Secrets/Confidentiality

Upon the date of County Commission and City Council approval of the Proposer selected by the Evaluation Committee for award hereunder, your Proposal will be considered a public record except for material which qualifies as "trade secret" information under N.C. Gen. Stat. 66-152 *et. seq.* After such date, members of the public who submit public records requests will review the Proposal.

The public disclosure of the contents of each Proposal submitted in response to this RFP is governed by Chapter 132 and 66-152 *et. seq.* of the General Statutes of North Carolina. If any Proposal contains trade secret information as defined by Chapter 66-152 *et. seq.* of the General Statutes of North Carolina, such trade secret information should be specifically, and clearly identified in accordance with this Section.

To properly designate material as trade secret under these circumstances, each Proposer must take the following precautions: (a) any trade secrets submitted by a Proposer should be submitted in a separate, sealed envelope and on separate flash drive, marked **"Trade Secret— Confidential and Proprietary Information—Do Not Disclose Except for the Purpose of Evaluating this Proposal,"** and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope and on each page of the electronic file.

In submitting a Proposal, each Proposer agrees that the City and County, upon the Proposal due date, may reveal any trade secret materials contained in such response to all City and County staff and officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the County to assist in the evaluation process. Furthermore, each Proposer agrees to indemnify and hold harmless the City and County and each of its officers, employees, and agents from all costs, damages, and expenses incurred

relating to refusing to disclose any material, which the Proposer has designated as a trade secret. **Any Proposer that designates its entire Proposal as a trade secret may be disqualified.**

v. Prohibited Discrimination.

As a condition of entering into the Contracts that may result from this RFP, the Proposer agrees that they shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, sexual orientation or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a County contract or contract solicitation process, nor shall the Proposer retaliate against any person or entity for reporting instances of such discrimination. The Proposer shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all its subcontracting and supply opportunities on City and County contracts, if nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace.

As a condition of entering into an Agreement that may result from this RFP, the Proposer agrees to: (a) promptly provide to the City and County all information and documentation that may be requested by the City or County from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with the Agreement; and (b) if requested, provide to the City or County within thirty (30) days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Proposer has used on City or County contracts in the past five (5) years, including the total dollar amount paid by the Proposer on each subcontract or supply contract. The Proposer shall further agree to fully cooperate in any investigation conducted by the City or County, to provide any documents relevant to such investigation that are requested by the City or County, and to be bound by the award of any arbitration conducted.

The Proposer agrees to provide to the City or County from time to time on their request, payment affidavit detailing the amounts paid by the Proposer to subcontractors and suppliers in connection with the Contracts within a certain period of time. Such affidavits shall be in the format specified by the City or County from time to time. The Proposer understands and agrees that violation of this Commercial NonDiscrimination provision shall be considered a material breach of the Contracts and may result in contract termination, disqualification of the Proposer from participating in City or County contracts and other sanctions.

vi. Statutory Requirements

The Contracts awarded as a result of this RFP shall be in full conformance with all statutory requirements of North Carolina and all statutory requirements of the Federal Government, to the extent applicable.

vii. Reservation of Right to Change Schedule

The City and County shall ultimately determine the timing and sequence of events resulting from this RFP. The City and County reserve the right to delay the closing date and time for any phase if City and County staff believe that an extension will be in their best interest.

viii. Reservation of Right to Amend RFP

The City and County reserves the right to amend this RFP at any time during the process, if it believes that doing so is in their best interests. Any addenda will be posted to the internet at

<https://www.buncombecounty.org/Governing/Depts/Purchasing/default.aspx>. Proposers are required to acknowledge their receipt of each addendum by including the Addenda Receipt Confirmation Form set forth in "Required Forms," Form One with their Proposal.

ix. Additional Evidence of Ability

Proposers shall be prepared to present additional evidence of experience, qualifications, abilities, equipment, facilities, and financial standing. The City and County reserve the right to request such information at any time during the Proposal evaluation period for this RFP.

x. No Collusion or Conflict of Interest

By responding to this RFP, the Proposer shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Proposer submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud.

xi. Proposal Terms Firm and Irreversible

The signed Proposal shall be considered a firm offer on the part of the Proposer. The City and County reserve the right to negotiate price and the Scope of Work. All Proposal responses (including all statements, claims, declarations, prices and specifications in the Proposals) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City and County. The Proposer chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contracts, either in part or in its entirety, at the City and County's election. Any false or misleading statements found in the Proposal or Contract exceptions not included in the Proposal may be grounds for disqualification.

xii. Proposal Binding for 180 Days

Each Proposal shall contain a statement to the effect that the Proposal is a firm offer for one-hundred eighty (180) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the Proposer and include such individual's name, title, address, and telephone number. All prices quoted shall be firm and fixed for the full period of each Contract. The City/County shall have the option to accept subject to exception by any applicable Contract.

xiii. Subcontracting

The Proposer given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Proposer shall remain the prime contractor and will assume all responsibility for the performance of the Scope of Work that are supplied by the applicable subcontractor(s). Additionally, the City and County must be named as a third-party beneficiary in all subcontracts.

xiv. Use of The County Name

No advertising, sales promotion or other materials of the Proposer or its agents or representatives may identify or reference the City and County, in any manner absent the prior written consent of the County.

xv. Withdrawal for Modification of Proposals

Proposers may change or withdraw their Proposals at any time prior to the Proposal due date; however, no oral modifications will be allowed. Only facsimile, emails, letters, or other formal written requests for modifications or corrections of a previously submitted Proposal, which is addressed in the same manner as the Proposal, and received by the County prior to the scheduled closing time for receipt of Proposals, will be accepted. The Proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope, which is plainly marked "**Modifications to Proposal.**"

xvi. No Contact

As of the Proposal due date and until the date of approval by County Commission and City Council of an award under this RFP, each Proposer shall refrain from contacting any employee of the City or County or member of the Evaluation Committee except for written requests to the County Representative in accordance with the foregoing section and Section III.1 above.

xvii. No Bribery

In submitting a response to this RFP, each Proposer certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City or County in connection with the Contract.

xviii. Exceptions to the RFP

Other than exceptions that are stated in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the Duke Energy GSA program terms attached to this RFP. An "exception" is defined as the Proposer's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including the Duke Energy GSA program terms attached to this RFP. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Proposer provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Proposer's solution, must be described in detail.

xix. Fair Trade Certifications

By submission of a Proposal, the Proposer certifies that regarding this procurement:

- a. The prices have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with anyone;
- b. Unless otherwise required by law, the prices which have been quoted in its Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening; and
- c. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

xx. Clarification of Ambiguities

Any Proposer believing that there is any ambiguity, inconsistency or error in this RFP shall promptly notify the County in writing of such apparent discrepancy. Failure to notify will constitute a waiver of claim for ambiguity, inconsistency or error.

xxi. Proposer's Obligation to Fully Inform Themselves

Proposers or their authorized representatives are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting Proposals. Failure to do so will be at the Proposer's own risk.

xxii. Disclaimer

Each Proposer must perform its own evaluation and due diligence verification of all information and data provided by the County. The County makes no representations or warranties regarding any information or data provided by the County.