



## REQUEST FOR QUALIFICATIONS

### Silhouette Image Library - Community Identity Imagery

Applications Due: Monday, October 24, 2011, 4:00 p.m.

Mail or deliver applications to: Madison Arts Commission  
Department of Planning & Community & Economic Development  
215 Martin Luther King, Jr. Blvd., Room LL 100  
Madison, WI 53701-2985

All communications for this project: Karin Wolf  
City of Madison Art Programs Administrator  
Tel: (608) 261-9134  
[kwolf@cityofmadison.com](mailto:kwolf@cityofmadison.com)

#### CALL TO ARTISTS

The City of Madison is accepting applications from artists, communication designers, and teams to work with community members and leaders to develop community identity imagery concepts to be incorporated in 3D and 2D applications into the North side in order to provide a unique identity for the neighborhood.

#### PROJECT OVERVIEW

The project involves creating a silhouette image library of 5 images/concepts that the City can use in various applications in the Northside including a median fence on Northport Avenue Hwy 113, bus shelters, benches, sidewalk stamps, and possibly in relation to "stand alone" pieces such as the Warner Park entrance or art in the median.

A community dialogue regarding the future of this site has been ongoing for over a year. The conversation began during the neighborhood planning process. Information about the Neighborhood Plan can be found here: <http://www.cityofmadison.com/neighborhoods/northsideplan/> The Common Council representatives, Northside Planning Council, an independent citizen design group and other residents explored public art possibilities for their community and held multiple charrettes and meetings which resulted in a set of criteria for future development. The expected outcome of this project includes several phases of design implementation. After design completion, the first project will be to create art features for the fence in the median along Northport Dr. During subsequent phases, design work will be incorporated into bus shelters and in other locations on the Northside.

While street reconstruction is underway, the City is looking for an artist, designer, or team to create a library of community identity imagery that may be included in various elements of the streetscape to give this project a distinct identity. The artwork should reflect values and symbols the community strongly relates to, creating a feeling of unification within the neighborhood. Artwork may not include imagery that promotes private interests or commercial activities and may not otherwise violate chapter 31, the City of Madison Sign Control Ordinance. The images may be incorporated or inspire further sculptural projects such as the gateway into Warner Park. The selected silhouettes will allow enough translucency (no more than 75% opaque) to provide for visibility of objects beyond the image (i.e. cars, busses, pedestrians, cyclists, etc) and wind load.



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The selected artist, communication designer, or team will work with an appointed selection committee, the Madison Arts Commission, the district Alders, the Northside Planning Council and various City departments, and community stakeholders to develop the final community identity imagery. A recommendation for selecting one or multiple artists, designers, or companies will be that of the selection committee and will be based on the submitted ideas and other criteria identified below.

**ELIGIBILITY CRITERIA**

The competition is open to artists, communication designers, or teams who have the vision and skills required to complete the commission to the highest standards of artistic, innovative, and technical expertise. Demonstrated previous experience working cooperatively with neighborhood stakeholders, community members, fabricators or printing companies is required.

**BUDGET AND HONORARIUM DESIGN FEE**

Artists selected to proceed to the second step of the selection process will be offered a \$500 design development honorarium. The artist whose design work is ultimately chosen will receive an additional \$2000. This amount shall cover all costs associated with design, transportation, presentation, tools, materials, labor and all related costs required for the completion of designing 5 distinct silhouette images that (final product will be submitted in vector files scaled to an 8.5 by 11 or equivalent, illustrator, EPS files, and PDF). Candidate will need to assist the fabricator, silk screener, other printer or producers and installers to insure that all output of artwork is well executed. After paying the artist/s for the design work, \$20,000 will be available for fabrication and installation of artwork.

**ANTICIPATED PROJECT SCHEDULE**

- October 3, 2011 .....Request for Qualifications released
- October 24, 2011 .....Application deadline
- November 7, 2011.....Finalist selected and notified
- November 11, 2011.....Project orientation meeting on site
- December 2, 2011.....Deadline for design submissions from finalists
- Week of December 4th .....Finalists presentations
- December 2011.....Artwork submitted to fence contractor to begin fabrication
- Ongoing 2012.....Artist is available for consultation with fabricators/printers
- Summer/Fall 2012.....Installation of fence
- Fall 2012.....Fabrication/Installation in other locations

**SELECTION PROCESS**

**Step I – Request for Qualifications (RFQ)**

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- Any applicants meeting the eligibility criteria are invited to respond to this RFQ.
- Finalists will be selected for interviews based on a review of qualifications and completed projects.
- The Selection Panel for this project will likely include representatives from stakeholder groups such the Madison Arts Commission, business or citizen groups, alders, and City staff. This committee will select finalists to proceed to Step II.

1-3 finalists will be selected to develop design proposals and proceed to Step II.

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**Step II – Proposal Review**

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- Finalists will receive a \$500 honorarium fee for the design concept proposals that will include sketches and scale printouts showing what the images would look like in various applications. The fee shall also cover travel and other expenses associated with any presentations and promotions required.
- Finalists will be invited to interviews with the Selection Panel to discuss their experience and their approach to public art in general and their response to the Northside opportunity.
- A mandatory briefing session and site visit for finalists will be scheduled.
- Finalists will be required to submit full project proposals and present sketches/concepts to a committee and/or city officials.
- Design concepts may be publicly displayed.
- Final approvals.

**SELECTION CRITERIA**

1. Relevant professional artistic experience and ability to undertake the design, creation, consult with fabricators and installers as necessary.
2. Design approach and artistic merit; excellence, originality, creativity, innovation, aesthetic, conceptual and technical quality represented in the CD/DVD submissions.
3. Record of timely completion of projects; experience and ability in meeting deadlines and budgets and in working cooperatively with designers, contractors, engineers and project managers.
4. Record of completed projects that reflect enduring artistic quality and have operated long-term with minimal maintenance.

**APPLICATION REQUIREMENTS**

To be considered for this project artists must submit one set of images and eleven copies of the application that include the following:

1. Statement of Interest

Not to exceed two pages. Address your response to this project opportunity, experience, philosophy and statement of approach. Briefly describe your interest in a commission for the City of Madison and what you can bring to this project.

Specific proposals for artwork are not requested and will not be reviewed during Step I.

2. Current Resume(s) and Support Materials

Not to exceed two pages for each artist. Include artist's training and professional experience plus additional support material (not to exceed three pages) of press clippings or other relevant materials on past projects.

3. Representative Work and Documentation

Disk containing up to 10 digital JPEG images of relevant work. Briefly describe images, including budget for projects, completion dates, dimensions, media, project sponsor and other essential information.



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Images must be JPEG format, with compression settings resulting in the best image quality under 2MB file size, labeled in this manner: 01\_lastname\_firstname\_cityprojectname.jpg

4. Image Index for Representative Work

An annotated image list, clearly labeled with your full name and information and a numerical listing for each image, the title of the work, budget, year completed, dimensions and media. The image list form attached to this RFQ may be used or applicants may create their own.

5. Applicant References

Provide a list of organizations and/or clients for whom the Applicant has commissioned work within the last 5 years. Include name, current contact information including address, phone number, and email of contact person for each. Describe briefly the nature of the project and results.

The application deadline for this project is 4:00 p.m., October 24, 2011. Applications received after 4:00 p.m. on this date will not be considered. Applications may be modified or withdrawn prior to the time specified for the opening of the applications.

For questions regarding this RFQ, contact Karin Wolf at (608) 261-9134.

## CONTRACT

A contract with the City of Madison will be established with the awarded artist or team. If you apply as a team, name one person as the designated Team Leader. The contract will be between the City of Madison and the Team Leader.

## OWNERSHIP AND COPYRIGHT

Artists selected to create the artwork will be required to confirm in writing that they are the original creators of their designs, have not copied anyone else's designs and that their design does not infringe on anyone else's intellectual property rights.

The City shall have ownership and possession of all final products including all finalist concept designs and shall have the exclusive right to display the work, merchandise and make reproductions of the work. Artist may use image for non-commercial purposes.

## PROJECT DESCRIPTION

### Area Description

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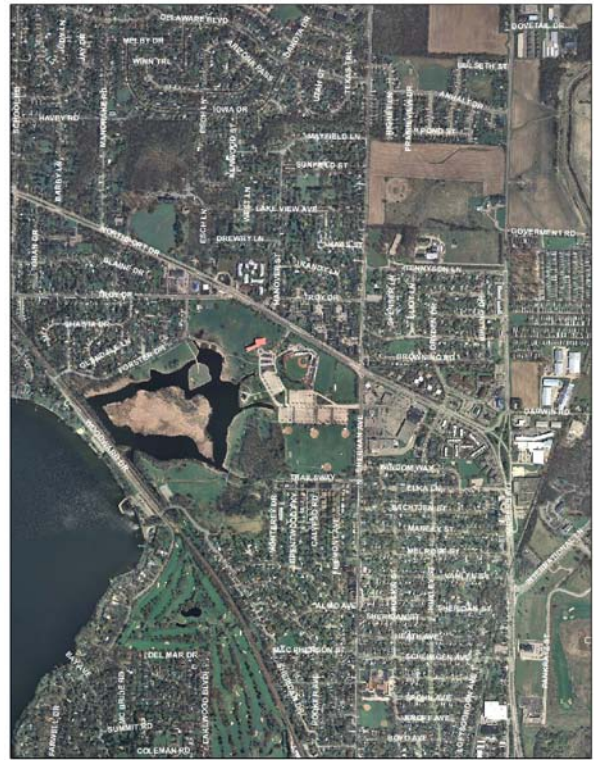
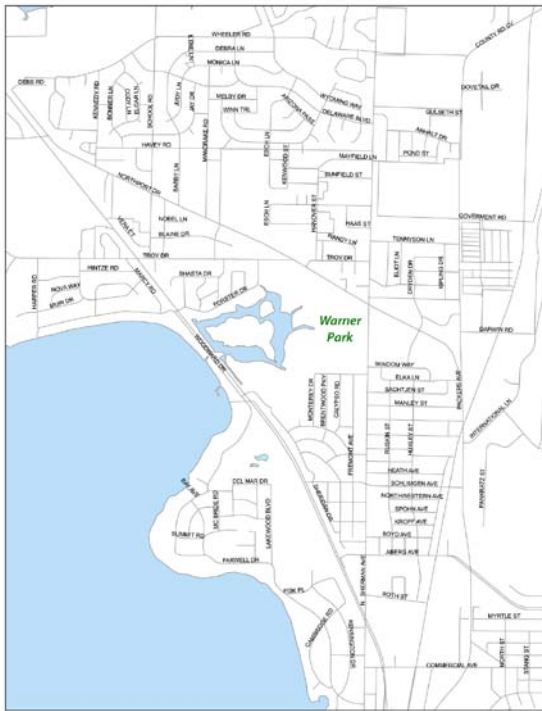
From 2009-2011 a vision for public art in this area of the City was developed in a neighborhood planning process. This vision may be found here:

[www.cityofmadison.com/neighborhoods/northsideplan/documents/ArtDesignCharrette\\_Collective.pdf](http://www.cityofmadison.com/neighborhoods/northsideplan/documents/ArtDesignCharrette_Collective.pdf)

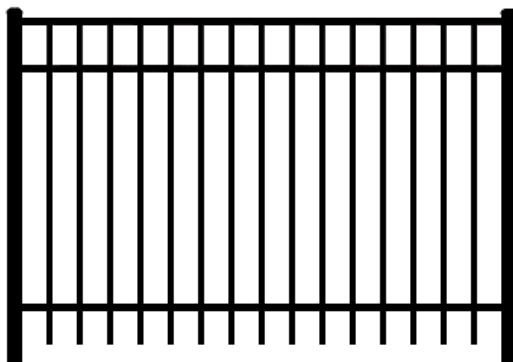
A description of the road construction project may be found here:

[www.cityofmadison.com/transportation/roadworks/](http://www.cityofmadison.com/transportation/roadworks/)

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Example: The silhouettes to the right were used by the State Department of Transportation on highway projects in the Milwaukee area. This is the type of artwork that translates well for anticipated uses.



The fence along Northport Drive & Packers Avenue looks like the panel on the left. Residents of the Northside have envisioned some panels replaced with custom laser cut silhouettes (right).

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The University of Wisconsin customizes campus bus shelters with laser cut lettering. Residents of the Northside have envisioned using “off the shelf” bus shelters, but customizing them with laser cut silhouettes from the image library created through this process.

**Neighborhood-Wide Values & Goals**

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The following ideas, developed by the neighborhood residents, hint at the values and goals that the community would like to see reflected in an image library.

- Nature & Wildlife (abstract organic forms, or stylized versions of trees, marsh, lakes, cattails, prairie plants, birds, cranes, foxes, deer, etc)
- Diversity (particularly of age and ethnicity)
- History & Industrial Past (rusty patinas, gritty, rail road)
- Activities (sports, hobbies, occupations--symbols may not create the perception of promoting a particular organization, a baseball might seem to be “advertising” the Mallards, a hot dog might seem to “advertise” Oscar Mayer, thus potentially violating the City sign ordinance.)
- Community & Culture (playful, whimsy, hardworking work ethic, nature-loving, authentic, unpretentious, down-to-earth, enterprising, resourceful, motivated, optimistic, practical, neighborly)
- Economic Development (Gateway, Airport, opportunity for innovation and business development)



**CONTRACT FOR PURCHASE OF SERVICES**  
between the City of Madison and Full Contractor Name

1. **PARTIES.**

This is a contract between the City of Madison, Wisconsin, hereafter referred to as the "City" and \_\_\_\_\_ hereafter referred to as "Contractor."

The Contractor is a:     Corporation         Limited Liability Company     General Partnership     LLP  
(to be completed by contractor)  Sole Proprietor     Unincorporated Association     Other: \_\_\_\_\_.

2. **PURPOSE.**

The purpose of this contract is as set forth in Section 3.

3. **SCOPE OF SERVICES AND SCHEDULE OF PAYMENTS.**

Contractor will perform the following services and be paid according to the following schedule(s) or attachment(s):

(Attach and label documents as necessary.)

4. **TERM AND EFFECTIVE DATE.**

This contract shall become effective upon execution by the Mayor, (or the Purchasing Agent, if authorized) on behalf of the City of Madison, unless another effective date is specified in the Attachment(s) incorporated in Section 3, however in no case shall work commence before execution by the City of Madison. The term of this contract shall be insert dates or reference attachments as needed.

5. **ENTIRE AGREEMENT.**

The entire agreement of the parties is contained herein and this contract supersedes any and all oral contracts and negotiations between the parties.

6. **ASSIGNABILITY/SUBCONTRACTING.**

Contractor shall not assign or subcontract any interest or obligation under this contract without the City's prior written approval. All of the services required hereunder will be performed by Contractor and employees of Contractor.

7. **DESIGNATED REPRESENTATIVE.**

- A. Contractor designates \_\_\_\_\_ as Contract Agent with primary responsibility for the performance of this contract. In case this Contract Agent is replaced by another for any reason, the Contractor will designate another Contract Agent within seven (7) calendar days of the time the first terminates his or her employment or responsibility using the procedure set forth in Section 15, Notices.
- B. In the event of the death, disability, removal or resignation of the person designated above as the contract agent, the City may accept another person as the contract agent or may terminate this agreement under Section 25, at its option.

8. **PROSECUTION AND PROGRESS.**

- A. Services under this agreement shall commence upon written order from the City to the Contractor, which order will constitute authorization to proceed; unless another date for commencement is specified elsewhere in this Contract including documents incorporated in Section 3.
- B. The Contractor shall complete the services under this agreement within the time for completion specified in Section 3, the Scope of Services, including any amendments. The Contractor's services are completed when the City notifies the Contractor in writing that the services are complete and are acceptable. The time for completion shall not be extended because of any delay attributable to the Contractor, but it may be extended by the City in the event of a delay attributable to the City, or in the event of unavoidable delay caused by war, insurrection, natural disaster, or other unexpected event beyond the control of the Contractor. If at any time the Contractor believes that the time for completion of the work should be extended because of unavoidable delay caused by an unexpected event, or because of a delay attributable to the City, the Contractor shall notify the City as soon as possible, but not later than seven (7) calendar days after such an event. Such notice shall include any justification for an extension of time and shall identify the amount of time claimed to be necessary to complete the work.
- C. Services by the Contractor shall proceed continuously and expeditiously through completion of each phase of the work.
- D. Progress reports documenting the extent of completed services shall be prepared by the Contractor and submitted to the City with each invoice under Section 24 of this agreement, and at such other times as the City may specify, unless another procedure is specified in Section 3.
- E. The Contractor shall notify the City in writing when the Contractor has determined that the services under this agreement have been completed. When the City determines that the services are complete and are acceptable, the City will provide written notification to the Contractor, acknowledging formal acceptance of the completed services.

9. **AMENDMENT.**

This contract shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. Any other change in any provision of this contract may only be made by a written amendment, signed by the duly authorized agent or agents who executed this contract.

10. **EXTRA SERVICES.**

The City may require the Contractor to perform extra services or decreased services, according to the procedure set forth in Section 24. Extra services or decreased services means services which are not different in kind or nature from the services called for in the Scope of Services, Section 3, but which may increase or decrease the quantity and kind of labor or materials or expense of

performing the services. Extra services may not increase the total contract price, as set forth in Section 23, unless the contract is amended as provided in Section 9 above.

11. **NO WAIVER.**

No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or Contractor shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

12. **NON-DISCRIMINATION.**

In the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, or national origin.

13. **AFFIRMATIVE ACTION.**

**A. The following language applies to all contractors employing fifteen (15) or more employees: (MGO 39.02(9)(c).)**

The Contractor agrees that, within thirty (30) days after the effective date of this contract, Contractor will provide to the City of Madison Department of Civil Rights (the "Department"), certain workforce utilization statistics, using a form provided by the City.

If the contract is still in effect, or if the City enters into a new agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the Department no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines. The Contractor agrees to interview and consider candidates referred by the Department if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

The Department will determine if a contractor is exempt from Sec. 13. A., at the time the Request for Exemption in 13.B. is made.

**B. Articles of Agreement, Request for Exemption, and Release of Payment:**

**The "ARTICLES OF AGREEMENT" beginning on the following page, apply to all contractors, unless determined to be exempt under the following table and procedures:**

NUMBER OF EMPLOYEES	LESS THAN \$25,000 Aggregate Annual Business with the City*	\$25,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

\*As determined by the Finance Director

\*\*As determined by the Department of Civil Rights

**REQUEST FOR EXEMPTION:** (MGO 39.02(9)(a)2.) Contractors who believe they are Exempt from the Articles of Agreement according to the table above, shall submit a Request for Exemption on a form provided by the Department of Civil Rights ("Department"), within thirty (30) days of the effective date of this Contract. The Department makes the final determination as to whether a contractor is exempt from the Articles of Agreement. In the event the Contractor is not exempt, the Articles of Agreement shall apply. **CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO THE ARTICLES OF AGREEMENT UPON REACHING \$25,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR.**

**RELEASE OF PAYMENT:** (MGO 39.02(9)(e)1.b.) Within thirty (30) days from the effective date of this contract, and prior to release of payment by the city, all non-exempt contractors are required to have on file with the Department, an Affirmative Action plan meeting the requirements of Article IV below. Additionally, contractors that are exempt from the Articles of Agreement under Table 13-B, must have a Request for Exemption form on-file with the Department, prior to release of payment by the City.

## ARTICLES OF AGREEMENT

### ARTICLE I

The Contractor shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the Contractor. The Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract.

### ARTICLE II

The Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractors state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex or national origin.

### ARTICLE III

The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the Contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

### ARTICLE IV

(This Article applies to non-public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison including the contract compliance requirements. The Contractor warrants and certifies that, of the following two paragraphs, paragraph A or B is true (**check one**):

- A. It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- B. Within thirty (30) days after the effective date of this contract, it will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action plan approved by the Madison Common Council.

### ARTICLE V

(This Article applies only to public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison, including the contract compliance requirements. The Contractor agrees to submit the model affirmative action plan for public works Contractors in a form approved by the Director of Affirmative Action.

### ARTICLE VI

The Contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

### ARTICLE VII

In the event of the Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action provisions of this contract or Sections 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

- A. Cancel, terminate or suspend this contract in whole or in part.
- B. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- C. Recover on behalf of the City from the prime Contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the noncomplying subcontractor.

### ARTICLE VIII

(This Article applies to public works contracts only.)

The Contractor shall include the above provisions of this contract in every subcontract so that such provisions will be binding upon each subcontractor. The Contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance.

### ARTICLE IX

The Contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE, and WBE" shall be substituted for the term "small business" in this Article.)

14. **SEVERABILITY.**

It is mutually agreed that in case any provision of this contract is determined by any court of law to be unconstitutional, illegal or unenforceable, it is the intention of the parties that all other provisions of this contract remain in full force and effect.

15. **NOTICES.**

All notices to be given under the terms of this contract shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

FOR THE CITY:

\_\_\_\_\_  
(Department or Division Head)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

FOR THE CONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

16. **STATUS OF CONTRACTOR/INDEPENDENT/TAX FILING.**

It is agreed that Contractor is an independent Contractor and not an employee of the City, and that any persons who the Contractor utilizes and provides for services under this contract are employees of the Contractor and are not employees of the City of Madison.

**Contractor shall provide its taxpayer identification number (or social security number) to the Finance Director, 210 Martin Luther King Jr. Blvd, Room 406, Madison, WI 53703, prior to payment.** The Contractor is informed that as an independent Contractor, s/he may have a responsibility to make estimated tax returns, file tax returns, and pay income taxes and make social security payments on the amounts received under this contract and that no amounts will be withheld from payments made to this Contractor for these purposes and that payment of taxes and making social security payments are solely the responsibility and obligation of the Contractor. The Contractor is further informed that s/he may be subject to civil and/or criminal penalties if s/he fails to properly report income and pay taxes and social security taxes on the amount received under this contract.

17. **GOODWILL.**

Any and all goodwill arising out of this contract inures solely to the benefit of the City; Contractor waives all claims to benefit of such goodwill.

18. **THIRD PARTY RIGHTS.**

This contract is intended to be solely between the parties hereto. No part of this contract shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

19. **AUDIT AND RETAINING OF DOCUMENTS.**

The Contractor agrees to provide all reports requested by the City including, but not limited to, financial statements and reports, reports and accounting of services rendered, and any other reports or documents requested. Financial and service reports shall be provided according to a schedule (when applicable) to be included in this contract. Any other reports or documents shall be provided within five (5) working days after the Contractor receives the City's written requests, unless the parties agree in writing on a longer period. Payroll records and any other documents relating to the performance of services under the terms of this Contract shall be retained by the Contractor for a period of three (3) years after completion of all work under this contract, in order to be available for audit by the City or its designee.

20. **CHOICE OF LAW AND FORUM SELECTION.**

This contract shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree, for any claim or suit or other dispute relating to this Contract that cannot be mutually resolved, the venue shall be a court of competent jurisdiction within the State of Wisconsin and the parties agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.

21. **COMPLIANCE WITH APPLICABLE LAWS.**

The Contractor shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the services or conduct of the Contractor and its agents and employees.

22. **CONFLICT OF INTEREST.**

- A. The Contractor warrants that it and its agents and employees have no public or private interest, and will not acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the services under this agreement.
- B. The Contractor shall not employ or contract with any person currently employed by the City for any services included under the provisions of this agreement.

23. **COMPENSATION.**

It is expressly understood and agreed that in no event will the total compensation for services under this contract exceed \$\_\_\_\_\_.

24. **BASIS FOR PAYMENT.**

**A. GENERAL**

- (1) The City will pay the Contractor for the completed and accepted services rendered under this contract on the basis and at the contract price set forth in Section 23 of this contract. The City will pay the Contractor for completed and approved "extra services", if any, if such "extra services" are authorized according to the procedure established in this section. The rate of payment for "extra services" shall be the rate established in this contract. Such payment shall be full compensation for services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the services.
- (2) The Contractor shall submit invoices, on the form or format approved by the City, specified in the Scope of Services, Section 3 of this contract. The City will pay the Contractor in accordance with the schedule set forth in the Scope of Services. The final invoice shall be submitted to the City within three months of completion of services under this agreement.
- (3) Should this agreement contain more than one service, a separate invoice and a separate final statement shall be submitted for each individual service.
- (4) Payment shall not be construed as City acceptance of unsatisfactory or defective services or improper materials.
- (5) Final payment of any balance due the Contractor will be made upon acceptance by the City of the services under the agreement and upon receipt by the City of documents required to be returned or to be furnished by the Contractor under this agreement.
- (6) The City has the equitable right to set off against any sum due and payable to the Contractor under this agreement, any amount the City determines the Contractor owes the City, whether arising under this agreement or under any other agreement or otherwise.
- (7) Compensation in excess of the total contract price will not be allowed unless authorized by an amendment under Section 9, AMENDMENT.
- (8) The City will not compensate for unsatisfactory performance by the Contractor.

**B. SERVICE ORDERS, EXTRA SERVICE, OR DECREASED SERVICE.**

- (1) Written orders regarding the services, including extra services or decreased services, will be given by the City, using the procedure set forth in Section 15, NOTICES.
- (2) The City may, by written order, request extra services or decreased services, as defined in Section 10 of this contract. Unless the Contractor believes the extra services entitle it to extra compensation or additional time, the Contractor shall proceed to furnish the necessary labor, materials, and professional services to complete the services within the time limits specified in the Scope of Services, Section 3 of this agreement, including any amendments under Section 9 of this agreement.
- (3) If in the Contractor's opinion the order for extra service would entitle it to extra compensation or extra time, or both, the Contractor shall not proceed to carry out the extra service, but shall notify the City, pursuant to Section 15 of this agreement. The notification shall include the justification for the claim for extra compensation or extra time, or both, and the amount of additional fee or time requested.
- (4) The City shall review the Contractor's submittal and respond in writing, either authorizing the Contractor to perform the extra service, or refusing to authorize it. The Contractor shall not receive additional compensation or time unless the extra compensation is authorized by the City in writing.

25. **DEFAULT/TERMINATION.**

- A. In the event Contractor shall default in any of the covenants, agreements, commitments, or conditions herein contained, and any such default shall continue unremedied for a period of ten (10) days after written notice thereof to Contractor, the City may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Contractor, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this contract and all rights of Contractor under this contract.
- B. Notwithstanding paragraph A., above, the City may in its sole discretion and without any reason terminate this agreement at any time by furnishing the Contractor with ten (10) days' written notice of termination. In the event of termination under this subsection, the City will pay for all work completed by the Contractor and accepted by the City.

26. **INDEMNIFICATION.**

The Contractor shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Contractor's and/or Subcontractor's acts or omissions in the performance of this agreement, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or its employees.

27. **INSURANCE.**

The Contractor will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. The Contractor shall not commence work under this Contract, nor shall the Contractor allow any Subcontractor to commence

work on its Subcontract, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by the City Risk Manager.

Commercial General Liability

The Contractor shall procure and maintain during the life of this contract, Commercial General Liability insurance including, but not limited to bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same amount. Contractor's coverage shall be primary and list the City of Madison, its officers, officials, agents and employees as additional insureds. Contractor shall require all subcontractors under this Contract (if any) to procure and maintain insurance meeting the above criteria, applying on a primary basis and listing the City of Madison, its officers, officials, agents and employees as additional insureds.

Automobile Liability

The Contractor shall procure and maintain during the life of this contract Business Automobile Liability insurance covering owned, non-owned and hired automobiles with limits of not less than \$1,000,000 combined single limit per accident. Contractor shall require all subcontractors under this Contract (if any) to procure and maintain insurance covering each subcontractor and meeting the above criteria.

Worker's Compensation

The Contractor shall procure and maintain during the life of this contract statutory Workers' Compensation insurance as required by the State of Wisconsin. The Contractor shall also carry Employers Liability limits of at least \$100,000 Each Accident, \$100,000 Disease – Each Employee, and \$500,000 Disease – Policy Limit. Contractor shall require all subcontractors under this Contract (if any) to procure and maintain such insurance, covering each subcontractor.

Professional Liability

The Contractor shall procure and maintain professional liability insurance with coverage of not less than \$1,000,000. If such policy is a "claims made" policy, all renewals thereof during the life of the contract shall include "prior acts coverage" covering at all times all claims made with respect to Contractor's work performed under the contract. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the City.

**Acceptability of Insurers.** The above-required insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.

**Proof of Insurance, Approval.** The Contractor shall provide the City with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates, and expiration dates of required policies prior to commencing work under this Contract. Contractor shall provide the certificate(s) to the City's representative upon execution of the contract, or sooner, for approval by the City Risk Manager. The Contractor shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager.

The Contractor and/or Insurer shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Contract.

28. **OWNERSHIP OF CONTRACT PRODUCT.**

All of the work product, including, but not limited to, documents, materials, files, reports, data, including magnetic tapes, disks of computer-aided designs or other electronically stored data or information (the "Documents"), which the Contractor prepares pursuant to the terms and conditions of this contract are the sole property of the City. The Contractor will not publish any such materials or use them for any research or publication, other than as expressly required or permitted by this contract, without the prior written permission of the City. The grant or denial of such permission shall be at the City's sole discretion.

The Contractor intends that the copyright to the Documents shall be owned by City, whether as author (as a Work Made For Hire), or by assignment from Contractor to City. The parties expressly agree that the Documents shall be considered a Work Made For Hire as defined by Title 17, United States Code, Section 101(2).

As further consideration for the City entering into this contract, the Contractor hereby assigns to City all of the Contractor's rights, title, interest and ownership in the Documents, including the right to procure the copyright therein and the right to secure any renewals, reissues and extensions of any such copyright in any foreign country. The City shall be entitled to the sole and exclusive benefit of the Documents, including the copyright thereto, and whenever required by the City, the Contractor shall at no additional compensation, execute all documents of assignment of the full and exclusive benefit and copyright thereof to the City. Any subcontractors and other independent Contractors who prepare portions of the Documents shall be required by the Contractor to execute an assignment of ownership in favor of the City before commencing work.

29. **LIVING WAGE (Applicable to contracts exceeding \$5,000).**

Unless exempt by MGO 4.20, the Contractor agrees to pay all employees employed by the Contractor in the performance of this contract, whether on a full-time or part-time basis, a base wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General Ordinances.

30. **AUTHORITY.**

Contractor represents that it has the authority to enter into this Contract. If the Contractor is not an individual, the person signing on behalf of the Contractor represents and warrants that he or she has been duly authorized to bind the Contractor and sign this Contract on the Contractor's behalf.

IN WITNESS WHEREOF, the parties hereto have set their hands at Madison, Wisconsin.

**CONTRACTOR**

\_\_\_\_\_  
(Type or Print Name of Contracting Entity)

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

\_\_\_\_\_  
(Print Name and Title of Person Signing)

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

**CITY OF MADISON, WISCONSIN  
a municipal corporation**

By: \_\_\_\_\_  
Paul R. Soglin, Mayor

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

**Approved:**

\_\_\_\_\_  
David P. Schmiedicke, Finance Director

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

By: \_\_\_\_\_  
Maribeth Witzel-Behl, City Clerk

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

**Approved as to Form:**

\_\_\_\_\_  
Eric T. Veum, Risk Manager

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

\_\_\_\_\_  
Michael P. May, City Attorney

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

**NOTE: Certain service contracts may be executed by the Purchasing Agent on behalf of the City of Madison:**

By: \_\_\_\_\_  
Randy A. Whitehead, Accountant 4  
Designee of Finance Director

\_\_\_\_\_ Date

Please note: MGO 4.26(3) and (5) authorize the Finance Director or designee to sign contracts for purchase or services when all of the following apply:

- (a) The funds are included in the approved City budget.
- (b) An RFP or competitive process was used, or the contract is exempt from competitive bidding under 4.26(4)(a)
- (c) The City Attorney has approved the form of the contract.
- (d) The contract complies with other laws, resolutions and ordinances.
- (e) The contract is for a period of 1 year or less, OR not more than 3 years AND the average cost is not more than \$50,000 per year, AND was subject to competitive bidding. (If over \$25,000 and exempt from bidding under 4.26(4)(a), regardless of duration of the contract, the Common Council must authorize the contract by resolution and the Mayor and City Clerk must sign, per 4.26(5)(b).)