

REQUEST FOR PROPOSALS

RFP #8211-0-2012/MM

Performing Arts Study



Due: **Friday, July 6, 2012** 2:00 PM CST

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RFP SUMMARY

RFP NUMBER	RFP 8211-0-2012/MM
RFP TITLE	Performing Arts Study
DEADLINE FOR BID SUBMISSIONS	2:00 P.M. CDT, Friday, July 6, 2012 Late, faxed, electronically submitted or unsigned proposals may be rejected.
SCOPE	The City of Madison, Wisconsin, seeks a qualified consultant in the field of performing arts to conduct a comprehensive study of the performing arts environment in Madison. The City asks that the consultant work with a Steering Committee to develop a plan for serving existing performing arts audiences and performing arts groups) as well as recommending strategies to attract new audiences. The plan should describe whether, and how, existing facilities meet the needs of today and should provide a road map as to what improvements might be needed in them, as well as what new facilities would be needed in the future.
SUBMIT PROPOSAL TO:	City of Madison Purchasing Services Room 407, City County Building 210 Martin Luther King Jr. Blvd. Madison, WI 53703-3346
LABELING	All proposals must be packaged, sealed and clearly labeled. Proposer's Name and Address RFP #: RFP #8211-0-2012/MM TITLE: Performing Arts Study DUE: Friday, July 6, 2012; 2:00 PM CDT
DIRECT ALL INQUIRES TO:	Monette McGuire City of Madison Purchasing Services 210 Martin Luther King Jr. Blvd., Room 407 Madison, WI 53703-3346 Tel: 608-267-4969 Fax: 608-266-5948 Email: mmcguire@cityofmadison.com
DOCUMENTS AVAILABLE ON BID DISTRIBUTION WEB SITES:	State of Wisconsin VendorNet System: www.vendornet.state.wi.us Demandstar by Onvia: www.demandstar.com

**FORMAT OF
SUBMITTALS**

1. Submit Technical and Cost Proposals in separate, distinct parts.
2. Hardcopy proposals should be typed and securely bound on 8.5 by 11-inch paper, otherwise identical to the electronic version.
3. Electronic proposal in a PDF format should be stored on a common media (CD, DVD, or flash drive), identical in content and sequence to hardcopy proposals submitted. *Email is not an acceptable method of submission.*
4. All proposals must be packaged, sealed and clearly labeled as either "COST" OR "TECHNICAL" PROPOSAL:

<u>Cost Proposal:</u>	one (1) five (5)	signed original + complete copies
<u>Technical Proposal:</u>	one (1) five (5)	signed original + complete copies
<u>Electronic Copy:</u>	one (1) one (1)	copy technical + copy cost proposal

5. Proposers shall submit their proposals in the most sustainable method possible using environmentally preferable and recycled products with minimal waste.

**QUESTIONS AND
REVISIONS TO
RFP:**

1. Submit questions no later than the due date specified in the Calendar of Events included in this RFP Summary.
2. Only written answers will be binding upon the City.
3. In the event that it is necessary to provide additional clarification or revision to the RFP, the City will post addenda to its bid distribution websites – see below. It is the proposer's responsibility to regularly monitor the websites for any such postings.

RFP CALENDAR

Please Note: These dates are for planning purposes. They represent the City's desired timeline for implementing this project. Any revision to the Due Date for submission of proposals will be made by addendum. All other dates may be adjusted without notice, as needs and circumstances dictate.

Date	RFP Activity
June 13, 2012	Release of RFP
June 20, 2012	Written questions are due
June 26, 2012	Response to Written Questions will be posted on DemandStar and Vendornet web sites
July 6, 2012 2:00 p.m.	DEADLINE FOR SUBMISSION OF PROPOSALS
Week of July 15, 2012	Vendor Interviews/presentations by invited contractors
July –August, 2012	Notification of selected contractor
August-Sept, 2012	Obtain Common Council Approval, Award and Contract Signing
September 2012	Anticipated contract approval and start date

SECTION 1: GENERAL RFP ADMINISTRATIVE INFORMATION

1.1. POINT OF CONTACT

The contact identified below is the sole point of contact regarding the RFP from the date of release of the RFP until selection of the successful proposer.

Monette McGuire
City of Madison Purchasing Services
210 Martin Luther King Jr. Blvd., Room 407
Madison, WI 53703-3346
Tel: 608-267-4969
Fax: 608-266-5948
Email: mmcguire@cityofmadison.com

1.2. RESTRICTION ON COMMUNICATIONS

All communications relating to this RFP must be directed to the person named above. After the issuance of the RFP, all bidders/proposers/protestors or individuals acting on their behalf are hereby prohibited from attempting to persuade or influence any elected City officials, their agents or employees or any member of the relevant selection committee, for or against a specific cause related to a pending solicitation for goods or services, in person, by mail, by facsimile, by telephone, by electronic mail, or by any other means of communication, at any time from the release of the RFP to award of the proposer; provided, however, nothing herein shall prohibit bidders/proposers/protestors or individuals acting on their behalf from communicating with the purchasing staff concerning a pending solicitation unless otherwise provided for in the solicitation or unless otherwise directed by the Purchasing Manager.

1.3. INQUIRIES AND CLARIFICATION OF SPECIFICATIONS

Proposers shall immediately notify the RFP point of contact of any questions, exceptions, clarification of any ambiguity, error, conflict, discrepancy omission or other deficiency or additions they have concerning the RFP document at this point in the RFP process. In the event that it becomes necessary to provide additional clarification or revision to the RFP, the City will post an addendum – see par. 2.5 below. Proposers are responsible for checking the bid distributions sites regularly for such postings.

Direct all questions to the RFP point of contact, in writing via; mail, fax or email on or before the due date for written questions as specified in the RFP calendar, on page 4 of this RFP.

Answers will be provided in a timely fashion and will be published on the bid distribution networks below:

www.demandstar.com and www.vendornet.state.wi.us

1.4. PROCURING AND CONTRACTING AGENCY

1.4.1. This Request for Proposal (RFP) is issued by the City of Madison Purchasing Services Unit, which is the sole point of contact for the City during the selection process.

1.4.2. The contract resulting from this RFP will be administered by Karin Wolf, City of Madison Arts Program Administrator.

1.5. ADDENDA / OFFICIAL COMMUNICATION

During the solicitation process for this RFP, all official communication between the City and proposers will be made via notices on the bid distribution websites used by the City (www.demandstar.com and www.vendornet.state.wi.us). The City will post such notices, which will include, but not be limited to: addenda for any modifications to administrative or performance requirements, answers to inquiries received, clarifications to requirements, and the announcement of the apparent winning proposer. It shall be the responsibility of the proposers to regularly monitor these bid distribution websites for any such postings. Failure to retrieve such addenda, and subsequent omission of the appropriate provisions in your response, may result in your proposal being disqualified.

1.6. ORAL PRESENTATIONS / SITE VISITS / PRE-BID MEETINGS

Proposers may be asked to attend pre-bid meetings, make oral presentations, inspect City locations or make their facilities available for a site inspection as part of this request for proposal process. Such presentations, meetings or site visits will be at the proposer's expense.

1.7. ACCEPTANCE/REJECTION OF PROPOSALS

- 1.7.1. The City reserves the right to accept or reject any or all proposals submitted, in whole or in part, and to waive any informalities or technicalities, which at the City's discretion is determined to be in the best interests of the City. Further, the City makes no representations that a contract will be awarded to any proposer responding to this request. The City expressly reserves the right to reject any and all proposals responding to this invitation without indicating any reasons for such rejection(s).
- 1.7.2. The City reserves the right to postpone due dates and openings for its own convenience and to withdraw this solicitation at any time without prior notice.

1.8. INCURRING COSTS

This request for proposals does not commit the City to award a contract, pay any costs incurred in preparation of proposals, or to procure or contract for services or equipment.

1.9. PROPOSER'S RESPONSIBILITY

Proposers shall examine this RFP and contract documents and shall exercise their own judgment as to the nature and scope of the work required. No plea of ignorance of conditions or difficulties that exist or may hereafter arise in the execution of the work under this contract as a result of failure to make necessary examinations and investigations, shall be accepted as an excuse for any failure or omission on the part of the proposer to fulfill the requirements of the contract.

1.10. PROPOSER QUALIFICATIONS

The City of Madison may make such investigations as it deems necessary to determine the ability of the proposer to perform the work, and the proposer shall furnish to the City all such information and data for this purpose, as the City may request. The City reserves the right to reject any proposal, if the evidence submitted by, or investigated of such Proposer, fails to satisfy the City that such Proposer understands the full scope of work and is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein.

1.11. PROPOSAL CONTENT

The evaluation and selection of a Contractor and the contract will be based on the information submitted in the vendor's proposal plus references and any required on-site visits or oral presentations. Failure to respond to each of the requirements in the RFP may be the basis for rejecting a response.

Elaborate proposals (e.g. expensive artwork) beyond that sufficient to present a complete and effective proposal, are not necessary or desired.

1.12. WITHDRAWAL OR REVISION OF PROPOSALS

1.12.1. A proposer may, without prejudice, withdraw a proposal submitted prior to the date and time specified for receipt of proposals by requesting such withdrawal in writing before the due time and date for submission of proposals. Telephone requests for withdrawal shall not be accepted. After the due date of submission of proposals, no proposal may be withdrawn by the proposer for a period of 90 days or as otherwise specified or provided by law.

1.12.2. Any proposer may modify his proposal by fax communication to the City of Madison Purchasing Services at any time prior to opening of proposals. The communication shall not reveal the proposal price, but shall provide the addition or subtraction or other modification.

1.13. NON-MATERIAL AND MATERIAL VARIANCES

The City reserves the right to waive or permit cure of nonmaterial variances in the offer if, in the judgment of the City, it is in the City's best interest to do so. Nonmaterial variances include minor informalities that do not affect responsiveness, that are merely a matter of form or format, that do not change the relative standing or otherwise prejudice other vendors, that do not change the meaning or scope of the RFP, or that do not reflect a material change in the services. In the event the City waives or permits cure of nonmaterial variances, such waiver or cure will not modify the RFP requirements or excuse the vendor from full compliance with RFP specifications or other contract requirements if the vendor is awarded the contract. The determination of materiality is in the sole discretion of the City.

1.14. MULTIPLE PROPOSALS

Multiple proposals from proposers are permitted; however, each must fully conform to the requirements for bid submission. Proposers must sequentially label (e.g. Proposal #1, Proposal #2) and separately package each bid. Alternate pricing proposals do not constitute multiple proposals.

1.15. DESIGNATION OF PROPRIETARY INFORMATION

Proposers are hereby notified that all information submitted in response to this RFP may be made available for public inspection according to the Public Records Law of the State of Wisconsin or other applicable public record laws. To the extent permitted by such laws, it is the intention of the City to withhold the contents of the bid from public view until such times as competitive or bargaining reasons no longer require non-disclosure, in the opinion of the City. At that time, all bids will be available for review in accordance with such laws. Proposer may submit with this RFP separated and marked items that the proposer deems to be proprietary or otherwise confidential, and the specific reasons proposer is seeking confidentiality and the City will handle such information according to applicable law, however the City cannot ensure that the information will not be subject to release if a request is made under applicable public records laws. Neither

a proposal in its entirety, nor price proposal information will be considered confidential, and the entire contents of any resulting contract cannot be considered confidential. The City will not provide advance notice to a proposer prior to release of any requested record.

1.16. SAMPLE CONTRACT FOR PURCHASE OF SERVICES (ATTACHMENT A)

Proposers are responsible for reviewing this attachment prior to submission of their bid. The Sample Contract for Purchase of Services shall serve as the basis of the contract resulting from this RFP. The terms of this template contract shall become contractual obligations following award of the RFP. By submitting a proposal, proposers affirm their willingness to enter into a contract containing these terms.

1.17. CITY OF MADISON STANDARD TERMS AND CONDITIONS (ATTACHMENT B)

Proposers are responsible for reviewing this attachment prior to submission of their proposal. City of Madison Standard Terms and Conditions are the minimum requirements for the submission of Proposals.

1.18. EXCEPTIONS

Proposer acknowledges that exceptions to any portion of this Solicitation including terms and conditions may jeopardize acceptance of the Proposal. The proposer must clearly indicate the exceptions taken and include a full explanation as a separate attachment to the Proposal. The failure to identify exceptions or proposed changes with a full explanation will constitute acceptance by the proposer of the Solicitation as proposed by the City. The City reserves the right to reject a proposal containing exceptions, additions, qualifications or conditions not called for in the solicitation.

1.19. BINDING OFFER

A proposal submitted in response to this RFP shall constitute a binding offer. Acknowledgement of this condition shall be indicated, on the "Request for Proposal Signature Page," by the signature of the proposer or an officer of the proposer legally authorized to execute contractual obligations. By submitting a proposal, the proposer affirms its acceptance of the terms and conditions of this RFP, including its attachments and exhibits, without exception, deletion or qualification, and without making its offer contingent.

1.20. EXECUTED CONTRACT

The City's Request for Proposal, the proposal responses, written communications and the resulting Contract based on the Contract for Purchase of Services constitute the entire Contract between the parties. The hierarchy of documents in descending order for resolution is as follows:

- a. Official Purchase Order and/or Contract for Purchase of Services
- b. Any finally negotiated terms and conditions
- c. Applicable Request for Proposal, amendments/attachments
- d. Standard Terms and Conditions
- e. Response received
- f. Written communications

1.21. PROPOSAL EVALUATION AND AWARD

1.21.1. PRELIMINARY EVALUATION

Received proposals will be reviewed for completeness and compliance with RFP guidelines. All incomplete RFPs submitted may be determined nonresponsive and removed from the evaluation process.

To be considered complete, RFPs shall include all required submittals listed in the checklist (RFP Form B) and shall be signed and dated. In the event that all proposers do not meet one or more of the requirements, the City of Madison reserves the right to continue the evaluation of the proposals that most closely meet the requirements of this RFP.

1.21.2. PROPOSAL EVALUATIONS, INTERVIEWS AND/OR SITE VISITS

The City's RFP Selection Committee will make the final selection and recommendation following the evaluation of the proposals which may include site visits and interviews, if deemed necessary, with some or all of the proposers. However, the City may make preliminary selection(s) on the basis of the original proposals only, without negotiation, interviews and/or site visits with any proposers. If interviews and or site visits are conducted, the Selection Committee may choose to assign additional points for these processes or re-evaluate, re-rate and/or re-rank the finalists' proposals based upon the written documents submitted and any clarifications offered in the interviews.

1.21.3. BEST AND FINAL OFFER

The Selection Committee may request best and final offers from one or more proposers determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers. If best and final offers are requested, they will be evaluated against the stated criteria, scored and ranked. The City reserves the right to negotiate the terms of the contract, including the award amount, with the selected proposer(s) prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring proposer(s), the City may negotiate a contract with the next highest scoring proposer.

1.21.4. CLARIFICATION OF PROPOSALS

During the evaluation of proposals, the City reserves the right to contact any or all proposers to request additional information for purposes of clarification of RFP responses, reject proposals which contain errors, or at its sole discretion, waive disqualifying errors or gain clarification of error or information.

1.21.5. CONSIDERATION OF PROPOSALS

In making their selection under this RFP, the City and the RFP Selection Committee will consider the submittals, Contractor interviews, general qualifications, prior history of performance as well as the selection criteria set forth in this RFP.

1.21.6. PRICE AND/OR COST ANALYSIS

The City reserves the right to conduct a price and/or cost analysis to determine if the price is fair and reasonable. If only one responsive proposal is received, a detailed price and/or cost analysis may be requested of the single proposer. Proposers shall cooperate as needed with the City's efforts to perform said analyses.

1.21.7. NEGOTIATION

The City reserves the right to negotiate final fees and scope of services with the selected Contractor, potentially including the final composition of the Contractor team.

1.21.8. LOCAL PREFERENCE

The City of Madison adopted a local preference purchasing policy that would grant a 5 percent request for proposal scoring preference to Dane County based proposers. Proposers seeking to obtain local preference must register prior to the bid due date in order to qualify for the scoring preference. Register online at:

<http://www.ci.madison.wi.us/business/localPurchasing/index.cfm>.

1.21.9. PROCESS

At any phase, the City reserves the right to terminate, suspend or modify this selection process; reject any or all submittals; and waive any informalities, irregularities or omissions in submittals, all as deemed in the best interests of the City.

1.21.10. COMMUNICATION WITH SELECTION COMMITTEE

Proposers may not contact members of the Selection Committee at anytime during the evaluation process, except at the City of Madison Purchasing request.

1.21.11. RIGHT TO REJECT PROPOSALS AND NEGOTIATE CONTRACT TERMS

The City reserves the right to reject any and all proposals and to negotiate the terms of the contract, including the award amount, with the selected proposer(s) prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring proposer(s), the City may negotiate a contract with the next highest scoring proposer.

1.21.12. BASIS FOR EVALUATION AND AWARD.

The award will be made to the responsible and responsive proposer who offers the best combination of criteria to include, but not limited to:

- Demonstrated understanding of the project and project area
- Relevant experience and qualifications
- Project Team qualifications and experience
- Quality and clarity of the proposed feasibility assessment process
- Ability to produce clear and concise draft and final reports
- Fee proposal
- Local Preference per Sec. 1.21.8

1.22. PUBLIC OPENINGS

There shall be no public opening on the due date and time specified in this RFP. Sealed proposals received by the City in response to a request for proposal are exempt from public records disclosure requirements until the City provides a notice of decision. If the City rejects all proposals submitted and the City concurrently provides notice of its intent to reissue the request for proposals, the rejected proposals remain exempt from public records disclosure until such time as the City provides notice of a decision or intended decision concerning the reissued request for proposals or until the City withdraws the reissued request for proposals. Documents may be inspected without charge, but a charge will be incurred to obtain copies.

1.23. COOPERATIVE PURCHASING

Common purchasing practices in government include cooperative or “piggyback” purchasing among various units of government or municipalities. (Under Wisconsin Statutes, a municipality is defined as a county, city, village, town, school district, board of school directors, sewer district, drainage district, vocational, technical and adult education district or any other public or quasi-public corporation, officer, board or other body having the authority to award public contracts.)

The use of the contract by other governmental units shall be optional.

Sales to the above governmental units by the Contractor shall be optional. Contractors must indicate on the proposal page whether or not, they agree to this provision.

If proposers choose to extend prices offered on this proposal to other governmental units, any resulting contract is solely between the supplier and the third party unit of government. The City/County shall not be responsible for any problems which may arise between other units of government and the Contractor as a result of any sales and/or purchases made.

Agreement to this provision will not be considered a criteria for award under this solicitation.

1.24. BID DISTRIBUTION NETWORKS

The City of Madison posts all bid announcements, addenda notices, and bid/RFP documents on two bid distribution networks. All proposers must access documents, information, amendments or supplements from either one of these websites. It shall be the responsibility of the proposers to regularly monitor the bid distribution websites for any such postings. Failure to retrieve such addenda and include their appropriate provisions in your response, may result in your proposal being disqualified.

- **State of WI VendorNet System**

(WI state and local agencies post bids on this network. **Registration is FREE.**)

<http://vendornet.state.wi.us/vendornet/default.asp>

- **DemandStar by Onvia**

(National bid distribution system – **FREE** if registering for the WI Association of Public Purchasers (WAPP) consortium.)

<http://www.onvia.com/WAPP> - to register

<http://www.demandstar.com> – website

SECTION 2: SCOPE OF SERVICES

2.1. Purpose

The City of Madison, Wisconsin, seeks a qualified consultant in the field of performing arts to conduct a comprehensive study of the performing arts environment in Madison. The City asks that the consultant work with city staff and a Steering Committee to develop a plan for serving existing performing arts audiences and performance arts groups as well as recommending strategies to attract new audiences. The plan should describe whether, and how, existing facilities meet the needs of today and should provide a road map as to what improvements might be needed in them, as well as what new facilities would be needed in the future. In addition to this needs assessment, the study should include recommendations how local performers and facilities can work together to maximize each facility's potential use. These recommendations shall address such issues as governance, ownership, financing, and the allocation of city or other public resources.

The City also requires a survey of the needs of local performers, both amateur and professional, to include resident companies at the Overture Center and Bartell Theater, other performing groups for both adult and youth actors and musicians, individual performers, and neighborhood-based performers and groups. Priorities for this study will be established by City staff and the steering committee. Other users whose needs should be considered are the Wisconsin Book Festival and the Wisconsin Film Festival and many others. City staff will create a working inventory of existing performance arts facilities around the city to include large facilities, venues that focus on specific types of performance or audiences, and facilities with all types of ownership and management structures. This inventory will describe type of usage, capacity, and amenities, including backstage infrastructure, in addition to location.

2.2. Goal

The City of Madison's vision is to ensure a vibrant, diverse and stable performing arts environment. The goal of this study is to identify the assets, needs, and conditions necessary to achieve and maintain a healthy, well-balanced cultural ecology related to performing arts. This study will also identify available economic, technical and social resources that will assist policy makers in making informed decisions to invigorate and strengthen Madison's performing arts community.

2.3. Background

Madison is rich in cultural resources, including performing arts venues. These spaces range in size from Overture Center's Overture Hall (2,251 seats) to smaller and more intimate spaces located throughout the city. These venues are critical to Madison's economic development, quality of life, and cultural enrichment. This study is needed because its results will allow all stakeholders to make informed decisions about fundraising, scheduling, service offerings, economic impact, collaboration, and more--in other words, the sustainability and future vitality of Madison's performance art landscape.

The Overture Center also has the Capitol Theatre, the Playhouse, Promenade Hall, Rotunda Stage and other venues. There are nine resident companies affiliated with Overture: Madison Symphony, Madison Opera, Wisconsin Chamber Orchestra, Madison Ballet, Kanopy Dance Company, Children's Theatre of Madison, Li Chiao-Ping Dance, Bach Dancing and Dynamite Society, and the Wisconsin Academy, with the Madison Museum of Contemporary Art occupying one end of the center. Overture offerings also include

Broadway in America, performances by other local artists, concerts, and more. It is a non-profit operated by Overture Foundation for the Arts. Under an agreement with the City of Madison, it will receive a grant of \$1.8 million in 2012. For more information, please go to <http://www.overturecenter.com>.

Also in downtown Madison are the non-profit Bartell Theater, home to four community theatre groups (<http://www.bartelltheatre.org>), and the Orpheum, a privately owned landmark building which is under foreclosure at the present time. The University of Wisconsin has several theatres, most notably the Wisconsin Union Theatre (<http://www.uniontheater.wisc.edu/>), The Monona Terrace Community and Convention Center, also downtown, hosts many other community arts events. There is a small lecture hall at Monona Terrace which is used by the Wisconsin Film Festival and Michael Feldman's "Whad'Ya Know" public radio show and more (<http://mononaterrace.com/>).

On the city's near east side is the Barrymore, also a non-profit, which hosts a variety of musical performances (<http://barrymorelive.com>). Further east, on the campus of Madison Area Technical College, is the Mitby Theatre (<http://matcmadison.edu/plus/mitby-theater>).

On the near west side, Edgewood College has a new Visual and Performing Arts Center (<http://www.edgewood.edu/Academics/Undergraduate/Theatre.aspx>).

Other venues include private clubs, churches, and schools. The City will provide the consultant with an extensive list of performing art venues and priorities for this study will be determined by City staff and members of the Steering Committee.

2.4. Leadership

The Consultant will be guided by a Steering Committee appointed by the Mayor. This committee will include representatives of the Common Council, local arts organizations, and the Madison business community. The Steering Committee will assist the Consultant in identifying necessary information, resources, and materials needed to ensure the preparation and completion of a plan that meets the established goals. The Steering Committee will meet as frequently as necessary to coordinate and support the efforts of the Consultant.

2.5. Scope of Services

The City will provide a venue inventory

The Study will consist of the following tasks:

Task 1: Market Assessment

A) Performing Arts Organizations Assessment (for all performing arts organizations)

- Description of organization
- Business/Funding Model
- Financial and Organization Health
- Current space usage (include discussion of how much the organization pays for current space)
- Desired space needs

B) Performing Arts Facility Assessment (for all performing arts facilities)

- Description of facility
- Business/Funding Model
- Financial and Organization Health
- Current space usage (including discussion of how much organizations pay to use current space)
- Opportunity for greater facility utilization

C) Performing Arts Patrons Assessment

- Demographics, trends, etc.

Task 2: Community Performing Arts Facilities' Needs Assessment

- Identify the essential resources already available
- Identify the community needs that are not being met (is there any value in separating out community needs vs. performing arts groups' needs?)
- Provide a prioritized listing of unmet needs
- Determine how best to obtain those resources

Task 3: Funding for Performing Arts

- Review funding sources for select venues identified in the inventory (above)
- Assess funding sources for local performing arts companies, including grants, private donations, earned revenue, and governmental supports
- Identify gaps where possible
- Assess the impact of national, regional and local trends on performing arts in Madison

Task 4: Meetings and Public Participation

- The consultant will be responsible for planning and facilitating a minimum of two (2) public events or meetings, leading discussion of findings and a draft report with recommendations at Steering Committee meetings, attending key meetings with city staff, and presenting the report draft and final reports to the City of Madison Common Council and any other commission deemed necessary by the City.

2.6. Deliverables

1. Project work plan
2. Status reports detailing work that has been accomplished and work remaining to be done along with each invoice.
3. Plans for achieving each of the tasks detailed above. (For Task 1, provide an examination of whether or not all of the organizations in 1A can be accommodated within all of the existing facilities identified in 1B. If not, what type of new facilities are needed?)
4. A draft finding report/Draft Recommendations (in a pre-approved format such as Adobe InDesign, Microsoft Publisher, or Microsoft Word) with data gathered according to tasks above and an action plan outlining recommendations for meeting community needs in facilities, funding, improved

governance of major facilities, cooperation among both performers and facilities, and strategies for meeting future needs.

5. Final report including each of the tasks detailed above, implementation strategy, and timeline incorporating all revisions and in the acceptable formats specified above.

2.7. Payment Schedule

Contracts will be on a time and materials basis with a not-to-exceed dollar value. The City desires monthly invoicing. The City will retain 10% of each invoiced amount, payable upon successful conclusion of the contract. Payment will be made within thirty days after receipt of a properly documented invoice and approval of deliverables to date.

2.8. Project Schedule/Timeline

The study shall commence with a signed contract and shall be completed within 6 calendar months or as negotiated.

SECTION 3: REQUIRED INFORMATION AND CONTENT OF PROPOSALS

Proposers must submit only the required information in the format and order as outlined below. Please do not submit a copy of this RFP.

3.1. GENERAL

It is the responsibility of each Contractor, before submitting a Proposal, to (a) examine the RFP thoroughly, (b) if applicable, visit the Department's website, www.cityofmadison.com/business, as well as the department's location to become familiar with local conditions that may affect cost, progress, performance or furnishing of the work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the work, (d) study and carefully correlate Contractor's observations with the RFP, and (e) notify the Purchasing Office of all conflicts, errors or discrepancies in the RFP. Failure to do so will be at Contractor's own risk. A Contractor shall not be relieved of a requirement of this RFP on the plea of error.

Any Contractor who is seeking clarification about the specifications of this RFP must do so in writing prior to the RFP question due date shown in the RFP Calendar on page 5 and in accordance with the provisions outlined in this RFP.

3.2. RESPONSE FORMAT

The response to the RFP shall be complete but succinct and comprehensive and shall include suggested approaches related to the Contractor's ability to fulfill the requirements and achieve the City's objectives and scope of services. Elaborate proposals, such as those including expensive artwork, beyond that sufficient to present a complete and effective proposal, are not necessary or desired.

Proposals must be organized with headings and subheadings in the order provided in Section 3.4. Each heading and subheading should be separated by tabs or otherwise clearly marked. Required Information and Content of Proposals. RFP Form B provides a checklist of all required submittals.

3.3. REQUIRED INFORMATION AND CONTENT OF PROPOSALS

Table of Contents

The Table of Contents outlines in sequential order the major sections of your proposal.

Chapter 1: Required RFP Forms

Include the following required forms (blank forms are included in the RFP):

A. Signature Affidavit - RFP Form A

Submit certification with the legal name of the proposer and signature of the person(s) legally authorized to bind the proposer to a contract.

B. Receipt Forms and Submittal Checklist - RFP Form B

Acknowledge and initial parts of RFP received and submitted

C. Contractor Profile Information - RFP Form C

D. Proposer References – RFP Form D

Provide business identification and contact information required in the form.

Chapter 2. Executive Summary

Summarize in a brief and concise manner, your understanding of the Scope of Work. Summarize the critical success factors and key challenges the City of Madison will face during this project. Recommend a high-level strategy or approach for the City of Madison to follow.

Chapter 3. : Qualifications, Experience and References

A. Background and History.

1. Describe briefly your firm's background and history. State organization's size: local, regional, national and international, in relation to providing services requested in this RFP. State the location of the office from which this engagement will be serviced and the range of activities performed at that office.
2. Provide a statement of the length of time you have been in business supplying the services referenced herein and experience in serving governmental entities.

B. Project Team.

1. Describe proposed organizational structure for the key staff (names and titles) and affiliates who would become directly involved in the execution of the contract, their role, reporting responsibilities, team interface with City project management and estimated time commitment (in hours) for each team member. Identify project manager(s) from your company (cannot be from affiliate). A principal or partner-level individual shall be the contact provided for all service and billing issues. Include a brief statement of the availability of key assigned personnel of the team.
2. Include brief resumes for all members of the team, including any subcontractors.
3. If applicable, provide a general overview of all of the partners/subcontractors or companies whose services will be part of the proposal., Describe their placement in the primary management structure, proof of financial stability, number of years in operation, number of employees, etc.

*The successful contractor shall notify the City of any major change in personnel and/or subcontractors assigned to the project. The City reserves the right to approve or reject any major change in personnel or subcontractors assigned to the project.

C. Experience and References.

1. Demonstrate the firm's capability, experience and qualifications in providing services equal to or greater in scope than those requested in this RFP. Describe the project team's relevant experience, especially in projects of similar size and scope.
2. Provide a list of all relevant experience in the last five years. Identify which of these contracts were performed for the public sector.
3. References --Proposers must include in their RFPs a list of no more than ten organizations, from recent projects, similar in size and scope, which can be used as references for work performed in

the area of service required. Selected organizations may be contacted to determine the quality of work performed and personnel assigned to the project. Use RFP Form D and additional forms, as needed to provide the following information for each client reference:

- Client (contact person, address, and telephone numbers)
- Contract period, Year completed
- A description of the performed work
- Total cost

D. Current and near future workload (ability to perform in a timely fashion). Submit current list of projects and percentage of completion and expected date for completion.

E. Disclosure of Conflict of Interest. Disclose any potential conflict of interest due to any other clients, contracts, or property interests. Include a statement certifying that no member of your firm's ownership, management, or staff has vested interest in any firm, consultant or subconsultant involved in the project, or any aspect of the project, or with the Department of Planning and Community and Economic Development or the City of Madison.

F. Disclosure of Contract Failures, Litigations. Disclose any alleged significant prior or ongoing contract failures, contract breaches, any civil or criminal litigation or investigation pending within the last three (3) years which involves your firm and all subcontractors involved in the project. List any contracts in which your firm and any subcontractor has been found guilty or liable, or which may affect the performance of the services to be rendered herein.

G. Financial Capability

The proposer must provide a statement that he or she has the financial stability and capability to perform the work outlined within the Scope of Services.

Chapter 4. : Project Approach

A. Proposed Work Plan

- Submit a work plan that describes your approach and outlines the proposed steps for addressing and completing each of the tasks and components of the scope of services.
- **Timeline** - Provide a tentative project timeline with an estimation of total work hours broken down by individual task, including draft reporting to the City staff team. The City has estimated the study to be completed in six months from contract execution. Indicate any proposed difference in this schedule and support your proposal by stating how you can accomplish the work in less time or why you would need more time to achieve the goals of the project.

B. Contract Administration Methods

- Discuss your contract administration methods for executing the project scope, controlling its quality, completing specific deliverables, achieving project objectives and ensuring customer satisfaction.
- Describe your cost containment practices for controlling direct and indirect costs and strategy for adhering to contract schedules.
- Explain how you assess project-related risks and their impact. Identify roadblocks and milestones found in similar programs and your firm's approach to managing them. Summarize the critical success factors and key challenges the City of Madison will face during this study.

- Include any innovative ideas and other relevant information concerning your firm's understanding of the project.

C. City Resources

- Indicate any additional information or data to be used or obtained from the City of Madison in addition that discussed in the Scope of Services.
- Describe expected use of City resources including assistance from City Staff. Indicate what level of staff/committee effort you envision, understanding that City staff resources are very limited.

Chapter 5: Cost Proposal

Submit in a separate sealed envelope.

- A. Expense Schedules** - Submit **fee and reimbursable expense schedules** necessary to accomplish the scope of services identified in Section 2. The fee submittal shall address the following items:
- A proposed lump sum not-to-exceed cost for services.
 - Proposed costs for each task and subtask.
 - Costs for estimated hours, tasks and subtotal for each phase of the project.
 - Hourly rate schedule by personnel and the proposed number of hours budgeted for each member of the Contractor firm/team organized by task and phase of project.
 - Include the respective percentage of sub-contractors' involvement, if any, in each phase of work.
 - Direct and indirect costs in itemized detail (include on a separate tabulation sheet)
 - Identify any anticipated travel, transportation, lodging and related expenses incurred as part of the work. All such expenses shall be reasonable and documented and shall be included in the not-to-exceed cost for services and shall be itemized to show actual amounts not to exceed the applicable federal per diem rate, applicable for Madison, WI as shown on the website: <http://www.gsa.gov/portal/category/100120>.
- B. Fixed Price Period** – All prices, costs, and conditions outlined in the proposal shall remain fixed and valid for acceptance for a minimum of 120 days starting on the due date for proposals.
- C. Additional Work** - The Contractor shall indicate any additional work outside the scope of work identified in this RFP that the Contractor believes is needed. The Contractor shall estimate the cost of such work either to be billed on a time and materials basis and shall specify the corresponding hourly rate.
- D. Unforeseen Work** - The Contractor shall estimate any unforeseen work to be billed on a time and materials basis at the hourly rate schedule in A above. Please note: As stewards of public funds, the City maintains all adopted budgetary parameters in the performance of its contracts. The ability of the successful proposer to maintain a sense of fiscal responsibility shall be favorably considered in the ranking and award of a contract.

RFP FORM A SIGNATURE AFFIDAVIT

Note: This form must be returned with your proposal response.

In signing this proposal, we certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the opening of proposals to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

The undersigned, submitting this proposal, hereby agrees with all the terms, conditions, and specifications required by the City in this Request for Bid, and declares that the attached proposal and pricing are in conformity therewith, and attests to the truthfulness of all submissions in response to this solicitation.

Proposer shall provide the complete information requested below. Include the legal name of the Proposer and signature of the person(s) legally authorized to bind the Proposer to a contract.

Local Preference: (Refer to Section 1.21.8)

We are a registered local vendor
(Mark ONLY if currently registered on
_____ the City website)

_____ We intend to register as a local vendor

Cooperative Purchasing: (Refer to Section 1.23)

We agree to the cooperative purchasing provision
_____ YES

_____ NO

Proposal Invalid Without Signature	
SIGNATURE OF PROPOSER:	DATE:
NAME AND TITLE OF PROPOSER:	COMPANY NAME:
TELEPHONE:	ADDRESS:
FAX NO.:	
Person to Be Contacted If There Are Questions about Your Proposal (if different from above)	
NAME:	TITLE:
TELEPHONE:	FAX NO.:

RFP FORM B

RECEIPT FORMS and SUBMITTAL CHECKLIST

RECEIPT OF FORMS.		
The undersigned hereby acknowledges the receipt of the following forms:		
Request for Proposal (Initial all <u>applicable</u> forms)	Initial to acknowledge receipt of RFP Documents	<u>Required Submittals Checklist</u> Initial all submitted documents
RFP SECTIONS:		
Section 1: General RFP Administrative Information		[Checkered Pattern]
Section 2: Scope of Services		
Section 3: Proposal Submission Requirements		
ATTACHMENTS		
Attachment A: Sample Contract for Purchase of Services		
Attachment B: Standard Terms and Conditions		
Attachment C: Sample Payment Schedule		
ADDENDA		
Addendum No. ___ Dated: _____		
Addendum No. ___ Dated: _____		
Addendum No. ___ Dated: _____		

SUBMITTALS CHECKLIST.	
The undersigned hereby acknowledges the submittal of the following forms: (Initial all applicable forms.)	
SECTION 3.1: REQUIRED RFP FORMS	
1. RFP FORM A: Signature Affidavit	
2. RFP FORM B: Receipt Forms and Submittal Checklist	
3. RFP FORM C: Contractor Profile	
4. RFP FORM D: Proposer References	
SECTION 3.2: Company Information	
SECTION 3.2: Project Approach	
SECTION 3.2: Cost Proposal (Separate Sealed Envelope)	
ELECTRONIC COPY	

PROPOSER: _____

RFP FORM C

CONTRACTOR PROFILE

1. **Proposing Company Name:** _____
2. FEIN _____ OR (If Sole Proprietorship, provide SSN upon award, if FEIN is N/A)
- DUNN AND BRADSTREET NO. _____
3. **Form of Organization:** Corporation Limited Liability Company General Partnership
 Sole Proprietor Unincorporated Association Other: _____
4. **Location of Main Office:** _____
- ADDRESS _____ CITY _____ STATE _____ ZIP+4 _____
5. **Location of Office servicing City of Madison account:** _____
- ADDRESS _____ CITY _____ STATE _____ ZIP+4 _____
6. **Principal Information and Contact:**
- NAME _____ TITLE: _____
- TEL _____ TOLL FREE TEL _____
- FAX _____ E-MAIL _____
7. **Contact Person about your proposal if different from above:**
- NAME _____ TITLE: _____
- TEL _____ TOLL FREE TEL _____
- FAX _____ E-MAIL _____
8. **Orders and Billing Contacts and Mailing Address:**
- NAME _____ TITLE: _____
- TEL _____ TOLL FREE TEL _____
- FAX _____ E-MAIL ADDRESS _____
- ADDRESS _____ CITY _____ STATE _____ ZIP+4 _____
9. **Affirmative Action Contact:**
- The successful Contractor, who employs more than 15 employees and whose aggregate annual business with the City for the calendar year in which the contract takes effect is more than twenty-five thousand dollars (\$25,000), will be required to comply with the City of Madison Affirmative Action Ordinance, Section 3.58(8) within thirty (30) days of award of contract.
- NAME _____ TITLE: _____
- TEL _____ TOLL FREE TEL _____
- FAX _____ E-MAIL _____
- ADDRESS _____ CITY _____ STATE _____ ZIP+4 _____
10. **Local Preference Status:**
- The City of Madison has adopted a local preference purchasing policy granting a one percent request for bid or a 5 percent request for proposal scoring preference to Dane County based suppliers. Only suppliers registered prior to the bid's due date will receive the preference. Proposers seeking to obtain local preference are required to register on the City of Madison online registration website:
<http://www.cityofmadison.com/business/localPurchasing/index.cfm>
- _____ We are a registered local vendor
 (Mark ONLY if currently registered on the City website) _____ We intend to register as a local vendor

RFP FORM D

PROPOSER REFERENCES

FOR VENDOR: _____

Provide company name, address, contact person, telephone number, and appropriate information on the product(s) and/or service(s) used for four (4) or more installations with requirements similar to those included in this solicitation document. If vendor is proposing any arrangement involving a third party, the named references should also be involved in a similar arrangement.

Company Name

Address (include ZIP) _____

Contact Person _____ Phone No. _____

Contract Period _____

Services Provided _____

_____**Company Name**

Address (include ZIP) _____

Contact Person _____ Phone No. _____

Contract Period _____

Services Provided _____

_____**Company Name**

Address (include ZIP) _____

Contact Person _____ Phone No. _____

Contract Period _____

Services Provided _____

_____**Company Name**

Address (include ZIP) _____

Contact Person _____ Phone No. _____

Contract Period _____

Services Provided _____

ATTACHMENT A**SAMPLE - CONTRACT FOR PURCHASE OF SERVICES****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 3.58(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 City Comptroller

**As determined by the Department of Civil Rights

REQUEST FOR EXEMPTION: (MGO 3.58(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 3.58(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 AGREEMENTARTICLE 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 3.58(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 3.58(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 3.23 and 3.58 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 City Comptroller, 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:

Commercial General Liability

Covering as insured the Contractor and naming the City as an additional insured, with no less than the following limits of liability: Bodily injury, death and property damage of \$1,000,000 in the aggregate. This policy shall also be endorsed for contractual liability in the same amount. The subcontractor shall maintain a similar policy covering as insured each subcontractor.

Automobile Liability

Covering as insured the Contractor and naming the City as an additional insured, with no less than the following limits of liability: \$1,000,000 combined single limits for bodily injury, and property damage. Subcontractors shall maintain a similar policy covering as insured each subcontractor.

Worker's Compensation

Securing compensation for the benefit of the employees of the Contractor and the employees of each subcontractor, as required by Wisconsin Worker's Compensation Law.

Professional Liability

The Contractor shall 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.

As evidence of the above listed coverages, a Certificate of Insurance, a copy of the policy showing the relevant endorsement(s), and a cover letter identifying this Contract shall be forwarded to the City Comptroller, Attention: Risk Manager, 210 Martin Luther King Jr. Blvd, Room 406, Madison, WI 53703-3345, prior to the beginning of work under 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: _____

(Witness)

Date: _____

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

By: _____
David J. Cieslewicz, Mayor

Date: _____

Approved:

Dean Brasser, City Comptroller

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 Comptroller

Date

Please note: MGO 4.26(3) and (5) authorize the Comptroller or designee to sign contracts for purchase or services

ATTACHMENT B CITY OF MADISON

Standard Terms and Conditions

(STC-Form: 1/16/09)

This document is intended to indicate the minimum requirements for the submission of bids

1. General. Throughout this document, "City of Madison," "City" and "Purchasing" shall be synonymous and mean the City of Madison. The words "bid" and "proposal" are synonymous, as are the words "bidder," "proposer" and "contractor." The phrases "request for proposal," "invitation for bids," "request," "invitation," and "solicitation" shall also be synonymous.

As applied to the winning or selected bidder, the words "bid," "proposal," and "contract" are synonymous. If the City accepts a bid or proposal, the bid or proposal together with the City's entire Request for Proposals or Invitation for Bids and any other terms and conditions expressly agreed between the parties in writing, shall constitute a contract and will be the Entire Agreement, as described in paragraph 2 ("Entire Agreement"). In the event of any conflict between this Section A and any other terms and conditions included in the accepted bid or proposal, the terms of Section A shall control unless the parties expressly agree to another order of precedence, in writing. Finally, if a separate written contract is executed between the parties as a result of this solicitation, the terms and conditions of that contract shall control.

This invitation for bids does not commit the City to award a contract, pay any costs incurred in preparation of bids, or to procure or contract for services or equipment. The City may require the bidder to participate in negotiation and to submit such additional price or technical or other revisions to his or her bids as may result from negotiation. The bidder shall be responsible for all costs incurred as part of his or her participation in the pre-award process.

The City reserves the right to accept or reject any or all bids submitted, in whole or in part, and to waive any informalities or technicalities which at the City's discretion is determined to be in the best interests of the City. Further, the City makes no representations that a contract will be awarded to any offeror responding to this request. The City expressly reserves the right to reject any and all bids responding to this invitation without indicating any reasons for such rejections(s).

The City reserves the right to postpone due dates and openings for its own convenience and to withdraw this solicitation at any time without prior notice.
2. Entire Agreement. These standard terms and conditions shall apply to any contract or order as a result of this Request for Bid/Proposal except where special requirements are stated elsewhere in the Request, in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any documents, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the City.
3. Addenda. Changes affecting the specifications will be made by addenda. Changes may include, or result in, a postponement in the bid due date. Bidders are required to complete the Bidder Response Sheet, acknowledging receipt of all parts of the bid, including all addenda.
4. Price Proposal. All bidders are required to identify the proposed manufacturer and model, and to indicate the proposed delivery time on the attached Proposal Form. Failure to do so may cause the bid to be considered not responsive. If desired, the bidder may include product literature and specifications. The price quoted will remain firm throughout each contract period. Any price increase proposed shall be submitted sixty (60) calendar days prior subsequent contract periods and shall be limited to fully documented cost increases to the bidder which are demonstrated to be industry-wide.
5. Price Inclusion. The price quoted in any bid shall include all items of labor, materials, tools, equipment, and other costs necessary to fully complete the furnishing and delivery of equipment or services pursuant to the specifications attached thereof. Any items omitted from the specifications which are clearly necessary for the completion of the project shall be considered a portion of the specifications although not directly specified or called for in these specifications.
6. Pricing and Discount.
 - a. Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea., etc.) as stated on the bid/proposal or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price. If an apparent mistake exists in the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
 - b. In determination of award, discounts for early payment will only be considered when all other conditions are equal. Early payment is defined as payment within fifteen (15) days providing the discount terms are deemed favorable. All payment terms must allow the option of Net 30.
7. F.O.B. Destination Freight Prepaid. Bid prices must include all handling, transportation and insurance charges. Failure to bid FOB Destination Freight Prepaid may disqualify your bid.
8. Tax Exemption. The City of Madison is exempt from the payment of Federal Excise Tax and State Sales Tax. **The City Tax Exempt number is ES 42916.** Any other sales tax, use tax, imposts, revenues, excise, or other taxes which are now, or which may hereafter be imposed by Congress, the State of Wisconsin, or any other political subdivision thereof and applicable to the sale of material delivered as a result of the bidder's bid and which, by terms of the tax law, may be passed directly to the City, will be paid by the City.
9. Specifications.
 - a. All bidders must be in compliance with all specifications and any drawings provided with this solicitation. Exceptions taken to these specifications must be noted on your bid.
 - b. When specific manufacturer and model numbers are used, they are to establish a design, type, construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and the bidder/proposer is responsible for providing sufficient information to establish equivalency. The City shall be the sole judge of equivalency. Bidders are cautioned to avoid bidding alternates which do not meet specifications, which may result in rejection of their bid/proposal.
10. Regulatory Compliance.
 - a. Seller represents and warrants that the goods or services furnished hereunder, including all labels, packages, and container for said goods, comply with all applicable standards, rules and regulations in effect under the requirements of all Federal, State and local laws, rules and regulations as applicable, including the Occupational Safety and Health Act (OSHA), as amended, with respect to design, manufacture or use for their intended purpose

- of said goods or services. Seller shall furnish Material Safety Data Sheets (MSDS) whenever applicable.
- b. If it is determined by the City that such standards are not met, the seller agrees to bear all costs required to meet the minimum standards as stated above for the equipment/products furnished under this contract.
11. Warranty. Unless otherwise specifically stated by the bidder, products shall be warranted against defects by the bidder for ninety (90) days from the date of receipt. If bidder or manufacturer offers warranty that exceeds 90 days, such warranty shall prevail.
12. Ownership of Printing Materials. All artwork, camera-ready copy, negative, dies, photos and similar materials used to produce a printing job shall become the property of the City. Any furnished materials shall remain the property of the City. Failure to meet this requirement will disqualify your bid.
13. Award.
- a. The City will have sole discretion as to the methodology used in making the award. Where none is specified, the award will be made to the lowest responsible bidder in compliance with the specifications and requirements of this solicitation.
- b. The right is reserved to make a separate award of each item, group of items or all items, and to make an award in whole or in part, whichever is deemed in the best interest of the City.
14. Responsiveness and Responsibility. Award will be made to the responsible and responsive bidder whose bid is most advantageous to the City with price and other factors considered. For the purposes of this project, responsiveness is defined as the bidder's conformance to the requirements of the solicitation. Being not responsive includes the failure to furnish information requested.
- Responsibility is defined as the bidder's potential ability to perform successfully under the terms of the proposed contract. Briefly, a responsible bidder has adequate financial resources or the ability to obtain said resources; can comply with required delivery taking into account other business commitments; has a satisfactory performance record; has a satisfactory record of integrity and business ethics; and has the necessary organization, experience and technical skills.
- The City reserves the right to refuse to accept any bid from any person, firm or corporation that is in arrears or is in default to the City, or has failed to perform faithfully any previous contract with the City. If requested, the bidder must present within five (5) working days evidence satisfactory to the City of performance ability and possession of necessary facilities, financial resources, adequate insurance, and any other resources required to determine the bidder's ability to comply with the terms of this solicitation document.
15. Cancellation.
- a. The City reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds.
- b. In the event the Bidder shall default in any of the covenants, agreements, commitments, or conditions and any such default shall continue unremedied for a period of ten (10) days after written notice to the Bidder, the City may, at its option and in addition to all other rights and remedies which it may have, terminate the Agreement and all rights of the Bidder under the Agreement.
- c. Failure to maintain the required certificates of insurance, permits, licenses and bonds will be cause for contract termination. If the Bidder fails to maintain and keep in force the insurance, if required, the City shall have the right to cancel and terminate the contract without notice.
16. Item Return Policy. Bidder will be required to accept return of products ordered in error for up to twenty-one (21) calendar days from date of receipt, with the City paying only the return shipping costs. Indicate in detail on the Bidder Response Sheet, your return policy.
17. Payment Terms and Invoicing. The City will pay properly submitted vendor invoices within thirty (30) days of receipt, providing good and/or services have been delivered, installed (if required), and accepted as specified.
- a. Payment shall be considered timely if the payment is mailed, delivered, or transferred within thirty (30) days after receipt of a properly completed invoice, unless the vendor is notified in writing by the agency of a dispute before payment is due.
- b. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order, including reference to purchase order and submittal to the correct address for processing. Invoice payment processing address is shown on the upper middle section of the purchase order. Send invoices to Accounts Payable address on the purchase order. Do not send invoices to Purchasing or ship to address.
- c. Bidders, proposers shall include discounts for early payment as a percent reduction of invoice. Invoice discounts shall be determined where applicable, from the date of acceptance of goods and/or the receipt of invoice, whichever is later. Discounts for early payment terms stated on the bid/proposal must be shown plainly on the invoice; discounts for early payment not shown on the invoice will be taken.
- d. Invoices submitted not in accordance with these instructions will be removed from the payment process and returned within ten (10) days.
18. Affirmative Action. If the Contractor employs 15 or more employees and has aggregate annual business with the City for the calendar year in which the contract takes effect of \$25,000 or more, the contractor will be required to file, within thirty (30) days of execution of the contract, a Model Affirmative Action Plan that is designed to insure that the contractor provides equal employment opportunity to all and takes affirmative action in its utilization of job applicants and employees who are women, minorities or persons with disabilities. [Madison General Ordinances, Sec. 39.02(9)]. The Model Affirmative Action Plan, Request for Exemption form, Workforce Utilization Statistics Report, and instructions are available at: <http://www.cityofmadison.com/dcr/aaForms.cfm> or by contacting the City of Madison Department of Civil Rights (DCR) at (608) 266-4910. If the contractor employs 15 or more employees but does not have annual aggregate business with the city of \$25,000 or more, contractor must submit certain workforce utilization statistics on a form provided by DCR, and for at least twelve (12) months after the effective date of this purchase, Contractor must notify the DCR of all job openings in Dane County open to applicants not already employees of the Contractor. The notice must include job description, classification, qualifications, application procedures, and deadlines. The Contractor agrees to interview and consider candidates referred by DCR if the candidate meets minimum qualification standards established by Contractor, and the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice. Further, the Contractor shall allow maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract.
19. Non-Discrimination. The Seller agrees not to discriminate against any employee, or applicant who 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, 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, aged, disability, sex or national origin.
- Contractor is further notified that, in the event that additional protected classifications are added to Section 39.02(9)(b) of the Madison General Ordinances prior to commencement of work under this proposal, the amended ordinance shall apply to the Contractor.

20. Living Wage. (Applicable to Service Contracts Exceeding \$5,000.) The bidder agrees to pay all employees employed in the performance of this contract, whether on 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. Additional information is available on our website:
www.ci.madison.wi.us/comp/livewage/lw-index.htm
21. Prevailing Wage Rate. When skilled labor is required for any service project, the Contractor warrants that the current minimum rate of wage scale established by the Common Council, under provisions of Section 23.01 of the City Ordinances, be paid to all trades and occupations. Wage scale is on file with the Clerk of the City of Madison. Additional information is available on our website:
www.ci.madison.wi.us/purch.html
22. 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 acts or omissions of Contractor and any of Contractor's subcontractors in the performance of this agreement, whether caused by or contributed to by the negligence of the City or its officers, officials, agents or employees.
23. 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, products and completed operations, 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.
24. Work Site Damages. Any damage, including damage to finished surfaces, resulting from the performance of this contract shall be repaired to the Owner's satisfaction at the Contractor's expense.
25. Compliance.
- Regulations. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.
 - Licensing and Permits. The Contractor selected under this bid shall be required to demonstrate valid possession of appropriate required licenses and will keep them in effect for the term of this contract. The Contractor shall also be required, when appropriate, to obtain the necessary building permits prior to performing work on City facilities.
26. Project Completion Date. All bidders are required to show a project completion date on the attached proposal page.
27. Warranty of Materials and Workmanship.
- The Contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the work under the Contract shall be new, first class, and in accordance with the Contract Documents. The Contractor further warrants that all workmanship shall be first class and in accordance with the Contract Documents and shall be performed by persons qualified in their respective trades.
 - Work not conforming to these warranties shall be considered defective.
 - This warranty of materials and workmanship is separate and independent from and in addition to any other guarantees in this Contract.
28. Replacement of Defective Work or Materials. Any work or material found to be in any way defective or unsatisfactory shall be corrected or replaced by the Contractor at its own expense at the order of the City notwithstanding that it may have been previously overlooked or passed by an inspector. Inspection shall not relieve the Contractor of its obligations to furnish materials and workmanship in accordance with this contract and its specifications.
29. Reservation of the Right to Inspect Work. At any time during normal business hours and as often as the City may deem necessary, the Contractor shall permit the authorized representatives of the City to review and inspect all materials and workmanship at any time during the duration of this contract, provided, however, the City is under no duty to make such inspections, and any inspection so made shall not relieve the Contractor from any obligation to furnish materials and

workmanship strictly in accordance with the instructions, contract requirements and specifications.

30. Sweatfree Procurement of Items of Apparel. Section 4.25 of the Madison General Ordinances, "Procurement of Items of Apparel," is hereby incorporated by reference and made part of this contract.

The contractor shall follow labor practices consistent with international standards of human rights, meaning that, at a minimum, contractor shall adhere to the minimum employment standards found in Section 4.25 of the Madison General Ordinances and shall require all subcontractors and third-party suppliers to do the same. For purposes of sec. 4.25, "Subcontractor" means a person, partnership, corporation or other entity that enters into a contract with the contractor for performance of some or all of the City-contracted work and includes all third-party suppliers or producers from whom the contractor or its contractors obtains or sources goods, parts or supplies for use on the city contract and is intended to include suppliers at all level of the supply chain. The standards in Sec. 4.25 shall apply in all aspects of the contractor's and subcontractor's operations, including but not limited to, manufacture, assembly, finishing, laundering or dry cleaning, (where applicable), warehouse distribution, and delivery. Contractor acknowledges that by entering into this contract, Contractor shall be subject to all of the requirements and sanctions of sec. 4.25 of the Madison General Ordinances.

The sanctions for violating Sec. 4.25 under an existing contract are as follows:

- a. Withholding of payments under an existing contract.
- b. Liquidated damages. The contractor may be charged liquidated damages on an existing contract of two thousand dollars (\$2,000) per violation, or an amount equaling twenty percent (20%) of the value of the apparel, garments or corresponding accessories, equipment, materials, or supplies that the City demonstrates were produced in violation of the contract and/or this ordinance per violation; whichever is greater.
- c. Termination, suspension or cancellation of a contract in whole or in part.
- d. Nonrenewal when a contract calls for optional renewals.
- e. Nonrenewal for lack of progress or impossible compliance. The City reserves the right to refuse to renew the contract that calls for optional renewals, when the contractor cannot comply with the minimum standard under (4)(b) and the noncompliance is taking place in a country where:
 - (1) Progress toward implementation of the standards in this Ordinance is no longer being made; and
 - (2) Compliance with the employment standards in the Ordinance is deemed impossible by the City and/or any independent monitoring agency acting on behalf of the City. Such determination shall be made in the sole opinion of the City and may be based upon examination of reports from governmental, human rights, labor and business organizations and after consultation with the relevant contractors and sub-contractors and any other evidence the City deems reliable.
- f. Disqualification of the contractor from bidding or submitting proposals on future City contracts, or from eligibility for future city procurements as defined in sub. (2), whether or not formal bidding or requests for proposals are used, for a period of one (1) year after the first violation is found and for a period of three (3) years after a second or subsequent violation is found. The disqualification shall apply to the contractor who committed the violation(s) whether that be under the same corporate name, or as an individual, or under the name of another corporation or business entity of which he or she is a member, partner, officer, or agent.

The exercise by the City of any or all of the above remedies, or failure to so exercise, shall not be construed to limit other remedies available to the City under this Contract nor to any other remedies available at equity or at law.

31. Local Purchasing - The City of Madison has adopted a local preference purchasing policy granting a 5 percent request for proposal and 1 percent request for bid scoring preference to local vendors.

To facilitate the identification of local suppliers, the City has provided an on-line website as an opportunity for suppliers to voluntarily identify themselves as local, and to assist City staff with their buying decisions. Proposers seeking to obtain local preference are required to register on the City of Madison online registration website. Additional information is available at:

<http://www.cityofmadison.com/business/localPurchasing/index.cfm>

ATTACHMENT C**- SAMPLE -
PAYMENT SCHEDULE****I. ACCEPTANCE OF DELIVERABLES**

Contract deliverables will be submitted, reviewed, and accepted according to the following procedure:

1. *General.* Except where this Contract provides different criteria, work will be accepted if it has been performed in accordance with the applicable specifications for Contractor's work in the Statement of Work, the Request for Proposals, the Contractor's Proposal, and/or as subsequently modified in City- approved design documents developed within this Project, and in the accepted final documentation.
2. *Submittal and Initial Review.* Upon written notification by Contractor that a Deliverable is completed and available for review and acceptance, the CITY Project Manager will use best efforts to review the Deliverable within five (5) business days after the Deliverable is presented to the CITY Project Manager, but in no event later than ten (10) business days after the Deliverable is presented to the CITY Project Director. Within the applicable period, the CITY Project Manager will direct the appropriate review process, coordinate any review outside the Project team, and present results to any user committees and/or Steering Committee for approval, as needed. The initial review process will be comprehensive with a view toward identifying all items which must be modified or added to enable a Deliverable to be approved. A failure to deliver all or any essential part of a Deliverable shall be cause for non-acceptance.
3. *Electronically Submitted Information.* Where applicable, CITY shall be provided all documents in electronic format, as well as hard-copy. Electronic media prepared by the Contractor for use by the CITY will be compatible with the CITY's comparable desktop application (e.g., spreadsheets, word processing documents). Conversion of files, if necessary, will be Contractor's responsibility. Conversely, as required, Contractor must accept and be able to process electronic documents and files created by the CITY's current desktop applications.
4. *Notification of Acceptance or Rejection.* If no notification is delivered to Contractor within the applicable period, the Deliverable will be considered approved. If CITY disapproves a Deliverable, CITY will notify Contractor in writing of such disapproval, and will specify those items which, if modified or added, will cause the Deliverable to be approved.
5. *Resubmitting Corrected Deliverables.* With respect to such Deliverables, Contractor will resubmit the Deliverable with requested modifications and the CITY Project Manager will review such modifications within five (5) business days. If no notification is delivered to Contractor within those five (5) business days, the Deliverable is considered approved. If the CITY disapproves that Deliverable, the CITY will notify Contractor in writing of any additional deficiencies which result from such modifications and Contractor will resubmit the Deliverable with the requested modifications. The parties agree to repeat this process as required until all such identified deficiencies are corrected or a determination of breach or default is made. The payment by the CITY for each activity is contingent upon correction of all such deficiencies and acceptance by CITY.
6. *Payment of Retainage Based on Acceptance.* Final payment of any retainage will be contingent on completion and acceptance of all contract deliverables at each phase of the project.

II. PAYMENT SCHEDULE AND COMPENSATION

- A. In consideration of the services required by this contract, CITY hereby agrees to pay to Contractor a maximum fee of \$ 000000.00.
- B. Payment will be made only on approval of Name , Dept. or his authorized designee .
- C. Travel Guidelines. Contractor will make every effort to use the City of Madison Policy Regarding Travel at City Expense per Administrative Procedure Memorandum No. 1-5 as a guide when travel is charged to the City. Information is available at: <http://www.cityofmadison.com/mayor/apm/1-5.pdf>
- D. Payment Schedule

1. The Contractor shall be compensated on a firm fixed price basis for hourly rates as well as total project cost, with progress payments for allowable work hours completed on a monthly basis, less the identified retainage per phase. Any retainage will be paid upon successful completion and after review and written approval by the CITY of the tasks, deliverables and completed milestone as identified in the project schedule. All completed work and deliverables shall be in conformity with the Request for Proposal specifications, Contractor response to the RFP and commonly accepted industry standards.
2. Project Schedule Summary

Phases	Task / Milestone	Total Cost per Phase	% Retainage	Retainage Amount
Task 1	Market Assessment		10	
Task 2	Community Performing Arts Facility's Needs Assessment		10	
Task 3	Etc.			

3. No Advance Payments. No compensation or payment of any nature will be made in advance of services actually performed and/or supplies furnished.