

# Request for Proposals

## State Street Campus Garage Mixed-Use Project

Madison, Wisconsin

RFP #: 10000-00-2021-BP

Due: June 30, 2021 - 2 pm CST



# TABLE OF CONTENTS

<b>SECTION</b>	<b>PAGE</b>
RFP SUMMARY	3
SECTION 1 - Introduction	4
SECTION 2 - Project Goals	5
SECTION 3 - Project Requirements	7
SECTION 4 - Required Information and Content of Proposals	8
SECTION 5 - Notice to Proposers	11
SECTION 6 - Project Schedule	17
RFP Forms	
FORM A: Signature Affidavit	
FORM B: Receipt of Forms and Submittal Checklist	
FORM C: Vendor Profile	
FORM D: Cost Proposal	
FORM E: References	
Appendix A	

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## RFP SUMMARY

<b>DEADLINE FOR SUBMISSIONS</b>	2:00 PM CDT, WEDNESDAY, JUNE 30, 2021 Late or unsigned submissions may be rejected
<b>DIRECT ALL INQUIRES TO:</b>	Tom Otto City of Madison Department of Planning & Community & Economic Development Telephone: 608-243-0178 Email: <a href="mailto:totto@cityofmadison.com">totto@cityofmadison.com</a>
<b>QUESTIONS AND REVISIONS TO RFP</b>	<ol style="list-style-type: none"><li>1. Submit questions no later than the due date specified in Section 5.</li><li>2. Only written answers will be binding upon the city.</li><li>3. In the event that it is necessary to provide additional clarification or revision to the RFP, the City will post addenda to its website. It is the proposer's responsibility to regularly monitor the website for any such postings.</li></ol>

DRAFT

## SECTION ONE

# Introduction

The City of Madison, the seat of the State of Wisconsin Capitol, University of Wisconsin, and Dane County, is at the center of the State's fastest growing region. Continually recognized by many national organizations for a wide variety of quality of life awards and rankings, the Madison region offers easy, affordable living, making it a prime choice for businesses and employees alike. With growing diversity among its population, the Madison region fosters a culture of openness, dialogue and energy, and offers a vital and dynamic workforce, the result of an outstanding education system, a diverse economy and successful partnerships between the public and private sectors.



At the heart of the region is downtown Madison. It is unlike any other in the world. In his 1911 *Madison: A Model City*, renowned city planner John Nolen said, "Madison is one of the most striking examples that could be selected in the United States of a city which should have a distinct individuality, marked by characteristics separating it from and many respects elevating it above other cities."

The Downtown serves as Madison's signature. It is the geographic, economic and civic heart of the community. When people think of Madison, images of the Downtown and its unique isthmus setting often drive their impressions. It is the place where the community comes together, especially for the many events it hosts and the abundant activities it provides.

Downtown Madison has experienced a renaissance over the past twenty years. A new Downtown Plan was enacted by the City in 2012 that sets the stage for that momentum to continue. It proposes a framework to continue to enhance the qualities that make Madison a world class city.

Successful downtowns are comfortable, but at the same time, exciting, fun, and places of continual discovery. Successful downtowns spend considerable resources planning for and working towards a desired future. This includes identifying and building on the things that work well, while recognizing and seizing new opportunities that will keep Downtown fresh and dynamic. Downtown Madison today is much different than the city John Nolen knew, but the natural features that provide the unique setting that so enamored Nolen continue to be the cornerstones influencing its evolution.

It is within this context that the City of Madison is pursuing an exciting new development opportunity that would be a mixed-use project containing an intercity bus terminal, public parking structure, ground floor retail, and housing - the ***State St Campus Garage Mixed-Use Project***.

The State Street Campus Garage at 415 N. Lake Street was constructed in 1964 and contains 510 regular stalls, 7 disabled stalls, 24 bicycle spaces, 16 motorcycle/moped spaces, 2 electric vehicle charging stations, and 5 spaces for authorized vehicles (City staff, cashiers, etc). The 542 space addition at 430 N. Frances Street was constructed in 1982. The original structure is approaching the end of its useful life and has become financially challenging for the City to continue to invest in its ongoing maintenance.



Figure 1

The site is bounded by Lake Street on the west, a group of buildings that front on State Street on the north, N. Frances Street on the east, and a group of buildings that front on University Avenue on the south. **See Figure 1.** Hawthorne Court runs north/south between the existing parking structures.

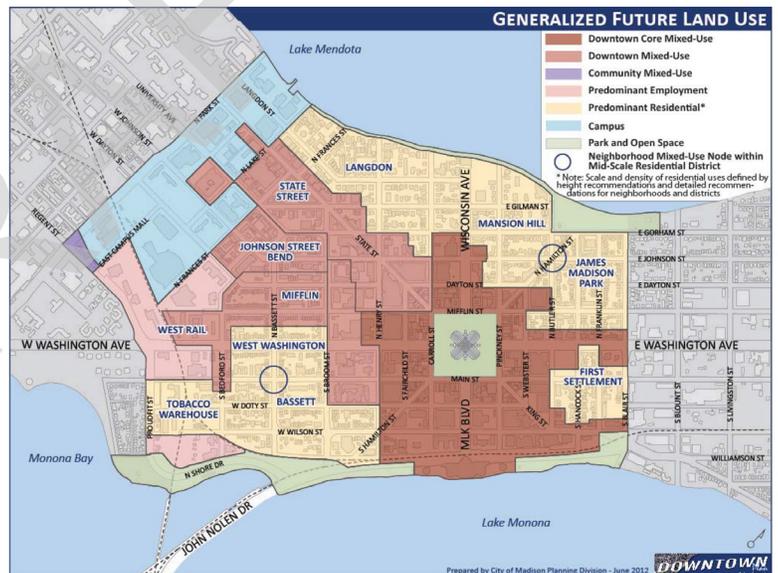
## SECTION TWO

# Project Goals

The *State St Campus Garage Mixed-Use Project* represents an important opportunity to add another dynamic and high quality, tax-generating development for the benefit of the City and its other taxing jurisdictions. The *State St Campus Garage Mixed-Use Project* can provide connectivity, transportation, housing and additional amenities to visitors, residents, and students and more effectively connect downtown Madison and the University of Wisconsin campus.

The City has a unique opportunity to guide a project to re-build the functionally obsolete Lake Street portion of the State Street Campus Garage, using the property as a catalyst for new tax producing development. This opportunity can significantly improve intercity bus services by creating a permanent bus hub that is integrated into a mixed-use development and is intended to:

- Utilize City-owned, tax-exempt parcels to significantly expand the City's tax base by replacing an obsolete parking facility, activating Lake Street, improving intercity bus connectivity and connectivity between Downtown Madison and University of Wisconsin campus;
- Unlock the development potential of the site through careful selection of mixed uses that include residential, retail, parking facilities, and intercity bus terminal;
- Increase economic and retail activity;
- Increase housing units (market rate/affordable /student).



The result of this effort will be a healthier downtown through increased property values, added employment opportunities and downtown residents, improved public facilities (both parking and intercity bus).

The project goals are:

### *Economic Development*

- Development of the City-owned, tax-exempt parcel to significantly expand the City's tax base and employment, consistent with the Project Requirements found in Section 3 of the RFP.
- Unlock the development potential of the site through careful selection of mixed uses that includes retail and housing along with intercity bus terminal and parking.

### *Residential*

- Attract additional residents and increased density to the central business district/downtown to increase the vitality of the area.

### *Retail, Restaurant and Entertainment*

- Draw residents and visitors to a mix of retail and restaurants that engage and activate the sidewalk and street.

### *Bicycles*

- Enhance Lake Street as an important connection for bicyclists and pedestrians.

### *Parking*

- Replace the State Street Campus Garage at 415 N. Lake Street with a new parking facility that connects to the 430 N. Frances Street addition and that serves the public parking needs in the area and the above ground development.
- Ensure the design of the project, which has a 75+ year horizon life cycle cost, is affordable for the Parking Utility to continue its mission to provide service to the public.

### *Intermodal Connectivity*

- Create a permanent City-owned intercity bus terminal that is off-street and integrated into the mixed-use development.
- Ensure high quality pedestrian and bicycle connectivity to Metro Transit and intercity bus hub.



## *Pre-Submittal Info Meeting*

There will be an optional pre-submittal info meeting on Monday, May 3, 2021 at 10:00 AM. It is anticipated to be a virtual “Zoom” meeting. To receive a link, please email Tom Otto, [totto@cityofmadison.com](mailto:totto@cityofmadison.com).

If the meeting is changed to an in-person meeting, an addendum will be released with all pertinent information.

## **SECTION THREE**

# Project Requirements

Your response to the State St Campus Garage Mixed-Use Project Request for Proposals must recognize and address the following program and project elements.

1. The RFP response shall propose redevelopment on 415 N Lake Street and may include adjacent parcels.
2. The parking structure at 430 N Frances Street will remain in use and should connect to new parking structure at 415 N Lake Street.
3. The City of Madison will design, construct, own, and operate the automobile parking, bus terminal, and any other critical City infrastructure to be constructed at 415 N Lake Street. The City will use their own low bid public works contractor. The City can potentially use the same architect/engineer team as the selected developer but the City reserves the right to contract with their own architect/engineer. The City plans to replace the 510 public parking spaces and construct needed accessory parking required for the new development in the parking facility, and lease the parking required by the development to the private developer. Proposer can potentially operate bus terminal if that is their desire.
4. The City is committed to maintaining access to the Frances St garage which shall remain open with access to the majority of the existing public parking supply during the construction process.
5. The project must be a high-quality mixed-use project that is compatible with surrounding buildings and uses.
6. The project must include a permanent City-owned intercity bus terminal as well as good pedestrian, bicycle, and Metro Transit connectivity and be consistent with the Adopted Downtown Master Plan and Comprehensive Plan. The Intercity bus terminal must not load/unload passengers on Lake Street or Frances Street. The Intercity bus terminal component must include enough flex space to incorporate restroom(s) should the Common Council mandate a restroom requirement. If the Common Council does not mandate restrooms flex space may be utilized for other use(s).
7. It is the City’s desire to include a portion of the residential units dedicated to UW students from Low to Moderate Income Households. The City and UW Office of Student Financial Aid are available to assist in collaboratively achieving this goal. Examples of strategies to achieve this goal may include the creation of micro-units, utilization of alternative tenant selection criteria, tenant referrals from the UW Office of Student Financial Aid, or a combination of strategies.
8. The development must be affordable for taxpayers with the following expectations:
  - a. The City of Madison will be responsible for financing the cost of the parking, subject to the terms of a Final Development Agreement to be negotiated with and approved by the City.

- b. The air rights above the parking must be purchased or leased at fair market value as determined by the City's appraisal.
- c. The City anticipates the creation of a tax incremental district (TID), solely to pay for the construction cost of a City-owned public parking structure, with flexibility for other City uses. The City may consider financial assistance to a private development project that generates significant tax incremental value, provided that it demonstrates a gap to the City's satisfaction, the public parking construction costs remain financially feasible, and the private financial assistance requested conforms to the City's TIF Policy. The City shall not consider TIF assistance to assist student housing. The City of Madison TIF Policy and Objectives and TIF Loan Underwriting Standards are available for your review: <https://www.cityofmadison.com/dpced/economicdevelopment/tax-incremental-financing/415/>
- d. The City reserves the right to audit construction costs related to the public elements of the project.

## SECTION FOUR

# Required Information and Content of Proposals

### *General Information, Signatures, and Required Guarantees and Certifications*

Form A – Signature Affidavit

Form B – Receipt Forms and Submittal Checklist

Form C – Contractor Profile Information

Form E – References - Include a list of contacts from five organizations, from recent projects, similar in scope and size. Selected organizations may be contacted to determine the quality of work performed and the personnel assigned to the project.

### *Development Venture and Team*

Responses must be in the same sequence and identified with the corresponding question number (Example: Question 1, Question 2, etc.). Please limit responses to ten (10) pages. Resumes will not count towards the ten page limit.

1. Identification of the development venture and team
  - a. Identify the legal name of the proposer and the officers who would be legally authorized to bind the development venture to the development contracts.
  - b. Identify the key entities comprising your team, describing briefly their respective backgrounds and history. This should include any subcontractors that the main developer will be using (architect, engineering, financial partners, etc).
  - c. Identify the key project team members (names and titles) and affiliates who would become directly responsible for the various aspects of the proposed development. Please note who the development manager is for your team. A principal or partner level individual shall be the contact provided for all issues related to the RFP. Provide resumes of all key team members to be involved in the project.

2. Describe the proposed organizational structure for the project team planning to undertake the State St Campus Garage Mixed-Use Project, their roles, reporting responsibilities and team interface with City of Madison project management. Include a brief statement of the availability of key assigned personnel to the team.

### *Experience*

Responses must be in the same sequence and identified with the corresponding question number (Example: Question 1, Question 2, etc.). Please limit responses to fifteen (15) pages.

1. Demonstrate your capability, experience in planning, designing and constructing mixed-use urban scale projects similar to the proposed State St Campus Garage Mixed-Use Project. Include information for each land use element of the proposed project.
2. Demonstrate your capability in managing the completed mixed-use urban scale projects similar to the proposed State St Campus Garage Mixed-Use Project.
3. Demonstrate your team's experience with public/private partnerships.
4. Disclose any alleged significant prior or ongoing contract failures, contract breaches, tax delinquencies, any civil or criminal litigation or investigation pending within the last five years which involves your firm and the key team members identified above. List any contracts in which your firm and/or key team member has been found guilty or liable, or which may affect your performance. Describe any bankruptcy filing by your firm or key team member or an entity they controlled in the last ten years.
5. Disclose any potential conflict of interest due to any other clients, contracts or property interests.

### *Project Concepts*

Responses must be in the same sequence and identified with the corresponding question number (Example: Question 1, Question 2, etc.). Please limit responses to fifteen (15) pages.

1. Please provide a detailed project concept design and general outline specifications. This should include:
  - a. Conceptual site and landscape design plans sufficient to convey how the project will generally create an engaging pedestrian environment along all street frontages;
  - b. Preliminary architectural direction, including anticipated building massing, architectural expression, a shading study and typical building materials to convey the general style of the building and how it will relate to the surrounding buildings and positively contribute to the built urban character of the immediate area;
  - c. Green building practices to be used during the construction phase;
  - d. Preliminary floor plans for all floors sufficient to understand how the building's internal program is expressed on the exterior of the building; and
  - e. A count of total units, bedrooms, and type of use by SF (i.e. SF of commercial, office, etc.).

## Financial Capability

Responses must be in the same sequence and identified with the corresponding question number (Example: Question 1, Question 2, etc.). Please limit responses to fifteen (15) pages.

1. Provide evidence that the development venture has the financial stability and capacity to undertake the development.
2. Provide a preliminary estimate of the expected range of total project cost (hard and soft costs). To the extent possible, the development venture should also provide the financing approach(es) it wishes to use and the preliminary roles it expects the public and private partners to have in developing State St Campus Garage Mixed-Use Project.
3. Provide a development phasing plan including a plan to maintain access to parking at 430 N Frances St during construction. Identify any constraints that the phasing of the State St Campus Garage Mixed-use Project development may have on your financing capability or financing plan.
4. Market information and data that demonstrate the appropriateness of the assumptions made within the financial plan and operating pro forma outlined below.
5. A description of the terms of real estate acquisitions, phasing of such acquisitions, purchase price and planned ownership structure.
6. A workforce utilization plan and targeted business goals for the construction and operations periods.
7. A detailed preliminary public/private financial plan showing how the project is to be financed, including letters of interest or commitment from potential lenders/partners. The financing strategy should describe the following:
  - a. Estimated uses of capital providing at least this level of detail:
    - Land acquisition price to be paid
    - Estimated demolition/site prep
    - Hard costs for construction
    - Developer fee
    - Architectural and engineering expenses
    - Other soft costs
    - Other costs
  - b. Estimated sources of capital including:
    - Debt (private borrowing)
    - Debt (City or CDA borrowing)
    - Equity (cash or cash equivalent)
    - Equity (deferred or forgiven developer/professional/construction fees)
    - Parking Utility contributions for publicly owned parking component

- City TIF contribution to project
  - Estimate of Value Calculations, including cap rate assumptions
  - Estimate of Annual Property Tax Payments
  - Details of potential City TIF investments which must be limited to parking
  - Specify other special sources such as New Market Tax Credits, Section 42 Tax Credits, conduit bonding, etc.
- c. Sources and uses should be further broken down by component (parking, retail, apartment, etc.) to the extent practicable.
  - d. Please review the City’s TIF Policy and note any exceptions from policy the development team anticipates requesting. See <https://www.cityofmadison.com/dpced/economicdevelopment/tax-incremental-financing/415/>
  - e. Provide any available letters of interest, credit, or commitment from investors or lenders that demonstrate the financial strength of the team and financial feasibility of the project.
  - f. If utilizing New Market Tax Credits or other financial assistance programs, indicate team’s experience with these financing methods.
  - g. Annual cash flows and pro-forma for term of project financing for a minimum of 10 years, by major component.
  - h. Net cash on cash returns.

**Cost**

Submit cost proposal, Form D, separate from the rest of the proposal.

**SECTION FIVE**

**Notice to Proposers**

**Summary**

The City of Madison Planning (“City”) is soliciting Proposals from qualified vendors for State Street Campus Garage Mixed-Use Project. Vendors submitting Proposals (“Proposers”) are required to read this Request for Proposals (“RFP”) in its entirety and follow the instructions contained herein.

**Important Dates**

Deliver Proposals no later than the due time and date indicated below. The City will reject late Proposals:

Issue Date:	Monday, April 5, 2021
Pre-Submittal Info Meeting:	Monday, May 3, 2021, 10:00 AM CST
Questions Due Date:	Monday, May 17, 2021
Answers Posted Date:	Friday, May 28, 2021
Due Date:	Wednesday, June 30, 2021, 2:00 PM CST

## **Format**

Submit Technical and Cost Proposals (Form D) in separate, distinct parts within the proposal package.

Hardcopy proposals typed and securely bound on 8.5 by 11-inch paper, otherwise identical to the electronic version.

Electronic proposal in a PDF format stored on a common media (CD, DVD, or flash drive), identical in content and sequence to hardcopy proposals submitted.

Cost Proposal (Form D): One Copy

Technical Proposal: Fifteen Copies

Electronic Proposal: One (1) complete copy. Cost and Technical Proposals should be separate files.

The City will not consider illegible Proposals.

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

Complete and return Forms A through E to City of Madison Purchasing Services by Wednesday, June 30, 2021, 2:00 PM CST.

## **Labeling**

All proposals must be clearly labeled:

Proposer's Name and Address

RFP #: 10000-00-2021-BP

Title: State Street Campus Garage Mixed-Use Project

Due: Wednesday, June 30, 2021, 2:00 PM CST

All email correspondence must include RFP #10000-00-2021-BP in the subject line.

## **Delivery of Proposals**

Delivery of hard copies to:

City of Madison Purchasing Services

City County Building, Room 407

210 Martin Luther King Jr. Blvd.

Madison, WI 53703

Delivery of electronic copy to:

via email to [bids@cityofmadison.com](mailto:bids@cityofmadison.com)

or on a commonly used media with the hard copies.

Proposals must be delivered as instructed. Deliveries to other City departments and/or locations may result in disqualification.

Note: When mailing your response via a third party delivery service, the outside of the packaging MUST be clearly marked with the RFP name and number. This ensures that the bid can be delivered to the correct purchasing agent without having to open the bid.

## *Appendix A: Standard Terms & Conditions*

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

### *Contracting and Insurance Requirement*

The City Attorney's office along with the Risk Manager will determine the best contracting form once the evaluation has concluded and a selected vendor chosen.

The City will be requiring Developer to carry sufficient insurance coverages and limits, and such limits will need to be agreed to and approved by the City's Risk Manager prior to commencing work.

### *Affirmative Action Notice*

If Contractor employs 15 or more employees and does aggregate annual business with the City of \$50,000 or more for the calendar year in which the PO and/or Contract is in effect, Contractor shall file, within thirty (30) days from the PO/Contract effective date and BEFORE RELEASE OF PAYMENT, an Affirmative Action Plan designed to ensure that the Contractor provides equal employment opportunity to all and takes affirmative action in its utilization of applicants and employees who are women, minorities and/or persons with disabilities. A sample affirmative action plan, Request for Exemption forms, and instructions are available at: [www.cityofmadison.com/civil-rights/contract-compliance/vendors-suppliers/forms](http://www.cityofmadison.com/civil-rights/contract-compliance/vendors-suppliers/forms) or by contacting a Contract Compliance Specialist at the City of Madison Affirmative Action Division at (608) 266-4910. Vendors must register for an account to complete the required forms online, here: <https://elam.cityofmadison.com/citizenaccess>.

Contractor shall also allow maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this PO/Contract.

Job postings: All contractors who employ 15 or more employees (regardless of the dollar amount of this contract or their annual aggregate business with the City) must notify the City of all external job openings at locations in Dane County, Wisconsin, and agree to interview candidates referred by the City or its designated organization. Job posting information is available at: <http://www.cityofmadison.com/civil-rights/programs/referrals-and-interviews-for-sustainable-employment-raise-program>. Instructions for contractors: [http://www.cityofmadison.com/civil-rights/documents/RaISE\\_Job\\_Posting\\_Instructions.pdf](http://www.cityofmadison.com/civil-rights/documents/RaISE_Job_Posting_Instructions.pdf)

The complete set of Affirmative Action requirements for this purchase can be found in **paragraph 20 of Appendix A – Standard Terms and Conditions and, if applicable, in Section 13 of Appendix B – Sample Contract for Purchase of Services.**

### *Multiple Proposals*

Multiple Proposals from Proposers are permitted; however, each must fully conform to the requirements for submission. Proposers must sequentially label (e.g., Proposal #1, Proposal #2) and separately package each Proposal. Proposers may submit alternate pricing schemes without having to submit multiple Proposals.

### *City of Madison Contact Information*

The City of Madison Economic Development is the procuring agency: Tom Otto  
City of Madison Economic Development  
PH: (608) 243-0178  
totto@cityofmadison.com

The City of Madison Purchasing Services administers the procurement function: Brian Pittelli  
Purchasing Services  
City-County Bldg, Room 407  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53703-3346  
PH: (608) 267-4969  
FAX: (608) 266-5948  
bpittelli@cityofmadison.com

For questions regarding Affirmative Action Plans please contact: Contract Compliance  
Department of Civil Rights  
City-County Bldg., Room 523  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53703  
PH: (608) 266-4910  
dcr@cityofmadison.com

The City employs spam filtering that occasionally blocks legitimate emails, holding them in ‘quarantine’ for four calendar days. The contacts listed in this RFP will acknowledge all emails received. Proposers not receiving acknowledgment within twenty-four hours shall follow-up via phone with specific information identifying the originating email address for message recovery.

### ***Inquiries and Clarifications***

Proposers are to raise any questions they have about the RFP document without delay. Direct all questions, in writing, to the Purchasing Services administrator listed in City of Madison Contact Information Section.

Proposers finding any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP document shall immediately notify the Buyer and request clarification. In the event that it is necessary to provide additional clarification or revision to the RFP, the City will post addenda – see Addenda below. Proposers are strongly encouraged to check for addenda regularly.

Proposals should be as responsive as possible to the provisions stated herein. Exceptions are not permitted. The City of Madison reserves the right to disqualify any and all bids that are non-responsive or that include exceptions.

### ***Addenda***

In the event that it is necessary to provide additional clarification or revision to the RFP, the City will post addenda to its Proposals distribution websites – see Bid Distribution Networks below. It is the Proposers responsibility to regularly monitor the websites for any such postings. Proposers must acknowledge the receipt of any addenda on Form B. Failure to retrieve addenda and include their provisions may result in disqualification.

### ***Bid Distribution Networks***

The City of Madison posts all Request for Proposals, addenda, tabulations, awards and related announcements on two distribution networks – VendorNet and DemandStar. The aforementioned documents are available exclusively from these websites. It is the Proposers responsibility to regularly monitor the bid distribution network for any such postings. Proposers failure to retrieve such addenda and incorporate their appropriate provisions in their response may result in disqualification. Both sites offer free registration to City Proposers.

State of Wisconsin VendorNet System: State of Wisconsin and local agencies bid network.  
Registration is free. <http://vendornet.state.wi.us/vendornet>

DemandStar by Onvia: National bid network – Free subscription is available to access Proposals from the City of Madison and other Wisconsin agencies, participating in the Wisconsin Association of Public Purchasers (WAPP). A fee is required if subscribing to multiple agencies that are not included in WAPP.

Bid Opportunities: [www.cityofmadison.com/finance/purchasing/bidDemandStar.cfm](http://www.cityofmadison.com/finance/purchasing/bidDemandStar.cfm)

Home Page: [www.demandstar.com](http://www.demandstar.com)

To Register: [www.onvia.com/WAPP](http://www.onvia.com/WAPP)

### ***Local Vendor Preference***

The City of Madison has adopted a local preference purchasing policy granting a scoring preference to local suppliers. Only suppliers registered as of the bid's due date will receive preference. Learn more and register at the City of Madison website: [www.cityofmadison.com/business/localPurchasing](http://www.cityofmadison.com/business/localPurchasing).

### ***Oral Presentations/Site Visits/Meetings***

Proposers may be asked to attend meetings, make oral presentations, inspect City locations or make their facilities available for a site inspection as part of this RFP process. Such presentations, meetings or site visits will be at the Proposers expense.

### ***Acceptance/Rejection of Proposals***

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).

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.

### ***Withdrawal or Revision of Proposals***

Proposers may, without prejudice, withdraw Proposals submitted prior to the date and time specified for receipt of Proposals by requesting such withdrawal before the due time and date of the submission of Proposals. After the due date of submission of Proposals, no Proposals may be withdrawn for a period of 90 days or as otherwise specified or provided by law. Proposers may modify their Proposals at any time prior to opening of Proposals.

### ***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. The determination of materiality is in the sole discretion of the City.

## **Public Records**

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. Information qualifying as a “trade secret”—defined in State of Wisconsin Statutes—may be held confidential.

Proposers shall seal separately and clearly identify all information they deem to be “trade secrets,” as defined in the State of Wisconsin Statutes. Do not duplicate or co-mingle information, deemed confidential and sealed, elsewhere in your response.

### **S. 19.36(5)**

(5) TRADE SECRETS. An authority may withhold access to any record or portion of a record containing information qualifying as a trade secret as defined in s. 134.90(1)(c).

### **s. 134.90(1)(c)**

(c) “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

The City cannot ensure that information will not be subject to release if a request is made under applicable public records laws. The City cannot consider the following confidential: a bid in its entirety, price bid information, or the entire contents of any resulting contract. The City will not provide advance notice to Proposers prior to release of any requested record.

To the extent permitted by such laws, it is the intention of the City to withhold the contents of Proposals from public view—until such times as competitive or bargaining reasons no longer require non-disclosure, in the City’s opinion. At that time, all Proposals will be available for review in accordance with such laws.

## **Usage Reports**

Annually, the successful Proposers shall furnish to City Purchasing usage reports summarizing the ordering history for each department served during the previous contract year. The report, at a minimum, must include each and every item or service ordered during the period, its total quantities and dollars by item/service and in total. The City reserves the right to request usage reports at any time and request additional information, if required, when reviewing contract activity.

## **Partial Award**

Unless otherwise noted, it will be assumed that Proposers will accept an order for all or part of the items/services priced.

## **Tax Exempt**

The City of Madison as a municipality is exempt from payment of federal excise taxes (Registration Number 39-73-0411-K) and State of Wisconsin taxes per Wisconsin statute 77.54(9a). Federal Tax ID #39-6005507. A completed Wisconsin Department of Revenue Form S-211 (R.2-00) can be found on the City website. Our tax-exempt number is ES 42916.

## Cooperative Purchasing

Bidders may choose to extend prices offered on bids to other 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. This is known as “cooperative” or “piggyback” purchasing, a practice common amongst units of government. The City is not responsible for any contract resulting from a cooperative purchase using this RFB as a basis; they are made solely between the bidders and third party unit of government.

## Proposers Responsibility

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

## SECTION SIX

# Project Schedule

The City of Madison anticipates the following tentative schedule of events for the RFP processes:

Milestone	Timing / Schedule
Release RFP	April 5, 2021
Pre-submittal Info meeting	May 3, 2021
RFP due	June 30, 2021
RFP review and selection of preferred proposal	July 2021 - September 2021
BCC's & Common Council approval to move forward with development agreement	October - December 2021
Determine project feasibility and negotiate development agreement	December 2021 – September 2022
BCC's & Common Council approves development agreement	October - February 2023
Design/Construction Documents/City Entitlements	Q1 2022 – Q4 2024
Demolition/Construction begins	Q1 2025 /Q2 2025

*Schedule is an estimate, subject to change.*



## Form A: Signature Affidavit

**RFP #: 10000-00-2021-BP State Street Campus Garage  
Mixed-Use Project**

*This form must be returned with your response.*

In signing Proposals, we certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise take 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 Proposals, that Proposals have been independently arrived at, without collusion with any other Proposers, competitor or potential competitor; that Proposals have not been knowingly disclosed prior to the opening of Proposals to any other Proposers or competitor; that the above statement is accurate under penalty of perjury.

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

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

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINT NAME OF PERSON SIGNING



# Form B: Receipt of Forms and Submittal Checklist

## RFP #: 10000-00-2021-BP State Street Campus Garage Mixed-Use Project

*This form must be returned with your response.*

Proposers hereby acknowledge the receipt and/or submittal of the following forms:

Forms	Initial to Acknowledge SUBMITTAL	Initial to Acknowledge RECEIPT
Description of Services/Commodities	N/A	
Form A: Signature Affidavit		
Form B: Receipt of Forms and Submittal Checklist		
Form C: Vendor Profile		
Form D: Cost Proposal		
Form E: References		
Appendix A: Standard Terms & Conditions	N/A	
Appendix B: Contract for Purchase of Services	N/A	
Addendum #		

\_\_\_\_\_  
VENDOR NAME

\_\_\_\_\_  
COMPANY NAME



# Form C: Vendor Profile

## RFP #: 10000-00-2021-BP State Street Campus Garage Mixed-Use Project

*This form must be returned with your response.*

### COMPANY INFORMATION

COMPANY NAME (Make sure to use your complete, legal company name.)			
FEIN		(If FEIN is not applicable, SSN collected upon award)	
CONTACT NAME (Able to answer questions about proposal.)		TITLE	
TELEPHONE NUMBER		FAX NUMBER	
EMAIL			
ADDRESS		CITY	STATE ZIP

### AFFIRMATIVE ACTION CONTACT

If the selected contractor employs 15 or more employees and does aggregate annual business with the City of \$50,000 or more, the contractor will be required to file an Affirmative Action Plan and comply with the City of Madison Affirmative Action Ordinance, Section 39.02(9)(e), within thirty (30) days contract signature. Vendors who believe they are exempt based on number of employees or annual aggregate business must file a request for exemption. Link to information and applicable forms: <https://www.cityofmadison.com/civil-rights/contract-compliance/vendors-suppliers>

CONTACT NAME		TITLE	
TELEPHONE NUMBER		FAX NUMBER	
EMAIL			
ADDRESS		CITY	STATE ZIP

### ORDERS/BILLING CONTACT

Address where City purchase orders/contracts are to be mailed and person the department contacts concerning orders and billing.

CONTACT NAME		TITLE	
TELEPHONE NUMBER		FAX NUMBER	
EMAIL			
ADDRESS		CITY	STATE ZIP

### LOCAL VENDOR STATUS

The City of Madison has adopted a local preference purchasing policy granting a scoring preference to local suppliers. Only suppliers registered as of the bid's due date will receive preference. Learn more and register at the City of Madison website.

CHECK ONLY ONE:

- Yes**, we are a local vendor **and** have registered on the City of Madison website under the following category: \_\_\_\_\_ [www.cityofmadison.com/business/localPurchasing](http://www.cityofmadison.com/business/localPurchasing)
- No**, we are not a local vendor or have not registered.



## Form D: Cost Proposal

### RFP #: 10000-00-2021-BP State Street Campus Garage Mixed-Use Project

*This form must be returned with your response.*

Prepare the fee proposal as all inclusive, not-to-exceed, fixed fees:

- All Inclusive – Covers all direct and indirect necessary expenses including but not limited to; travel, telephone, copying and other out-of-pocket expenses.
- Not To Exceed – The actual fees shall not exceed the amount specified in fee proposal.
- Fixed Fee – All prices, rates, fees and conditions outlined in the proposal shall remain fixed and valid for the entire length of the contract and any/all renewals.

Any pricing increases or additions must be agreed upon in writing by both parties.

#### Part 1

Please provide the cost for the following:

Item	Description	Cost
1.	Pre-Development	\$
2.	Development	\$
Total		\$

#### Part 2

Please provide all necessary documents including, but not limited to: itemized quote, proforma, etc. listing the costs to the City of Madison.

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COMPANY NAME



# Form E: References

## RFP #: 10000-00-2021-BP State Street Campus Garage Mixed-Use Project

*This form must be returned with your response.*

REFERENCE #1 – CLIENT INFORMATION			
COMPANY NAME	CONTACT NAME		
ADDRESS	CITY	STATE	ZIP
TELEPHONE NUMBER	FAX NUMBER		
EMAIL			
CONTRACT PERIOD	YEAR COMPLETED	TOTAL COST	
DESCRIPTION OF THE PERFORMED WORK			

REFERENCE #2 – CLIENT INFORMATION			
COMPANY NAME	CONTACT NAME		
ADDRESS	CITY	STATE	ZIP
TELEPHONE NUMBER	FAX NUMBER		
EMAIL			
CONTRACT PERIOD	YEAR COMPLETED	TOTAL COST	
DESCRIPTION OF THE PERFORMED WORK			

REFERENCE #3 – CLIENT INFORMATION			
COMPANY NAME	CONTACT NAME		
ADDRESS	CITY	STATE	ZIP
TELEPHONE NUMBER	FAX NUMBER		
EMAIL			
CONTRACT PERIOD	YEAR COMPLETED	TOTAL COST	
DESCRIPTION OF THE PERFORMED WORK			

COMPANY NAME



## CITY OF MADISON

(STC-Form: 12/18/2018)

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.
  2. **Entire Agreement, Order of Precedence.** These standard terms and conditions shall apply to any Purchase Order issued as a result of this Request for Bid/Proposal, except where expressly stated otherwise in the RFP or in a written instrument covering this purchase signed by an authorized representative of the City and the Contractor, in a form approved by the City Attorney (a "Separate Contract"). If such a separate contract is executed it shall constitute the entire agreement and no other terms and conditions, whether oral or written, shall be effective or binding unless expressly agreed to in writing by the City.  
If a Separate Contract is not executed, these Standard Terms and Conditions, the City's request for proposals, the version of the vendor's bid that was accepted by the City, and the City's Purchase Order (if any) shall constitute a contract and will be the entire agreement.  
**Order of Precedence:** If there is a conflict between this Section A and any terms in the vendor's accepted bid or proposal, this Section A shall control unless the parties expressly agree to another order of precedence, in writing. If there is a conflict between this Section A and a Separate Contract, the terms and conditions of the Separate Contract shall control.
- I. TERMS FOR SUBMISSION OF BIDS: The following section applies to the bid/selection process only.**
3. 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 are 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.
  4. **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.
  5. **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 to subsequent contract periods and shall be limited to fully documented cost increases to the bidder which are demonstrated to be industry-wide.
  6. **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.
  7. **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.
  8. **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.
  9. **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.
  10. **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.

11. 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.

II. **CONDITIONS OF PURCHASE: The following section applies to purchases/contracts after the award. See Paragraphs 1 & 2 for applicability and order of precedence.**

12. 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.

13. 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.

14. 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.

15. 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.

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. F.O.B. Destination Freight Prepaid. Unless otherwise agreed in writing, the vendor shall bear all handling, transportation and insurance charges. Title of goods shall pass upon acceptance of goods at the City's dock.

19. 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.

20. Affirmative Action.

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

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

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

The Contractor further agrees that, for at least twelve (12) months after the effective date of this Contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines, shall be provided to the City by the opening date of advertisement and with sufficient time for the City to notify candidates and make a timely referral. The Contractor agrees to interview and consider candidates referred by the Department, or an organization designated 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 the above requirements (Sec. 20.A.) at the time the Request for Exemption in 20.B.(2) 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 \$50,000 Aggregate Annual Business with the City*	\$50,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

\*As determined by the Finance Director

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

(1) Exempt Status: In this section, "Exempt" means the Contractor is exempt from the Articles of Agreement in section 20.B.(5) of this Contract and from filing an Affirmative Action plan as required by Section IV of the Articles of Agreement. The Department of Civil Rights ("Department") makes the final determination as to whether a contractor is exempt. If the Contractor is not exempt, sec. 20.B.(5) shall apply and Contractor shall select option A. or B. under Article IV therein and file an Affirmative Action Plan.

(2) Request for Exemption – Fewer Than 15 Employees: (MGO 39.02(9)(a)2.) Contractors who believe they are exempt based on number of employees shall submit a Request for Exemption on a form provided by the Department within thirty (30) days of the effective date of this Contract.

(3) Exemption – Annual Aggregate Business: (MGO 39.02(9)(a)c.): The Department will determine, at the time this Contract is presented for signature, if the Contractor is exempt because it will have less than \$50,000 in annual aggregate business with the City for the calendar year in which the contract is in effect. CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO SEC. 20.B.(5) UPON REACHING \$50,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR, BEGINNING IN 2019.

(4) Release of Payment: (MGO 39.02(9)(e)1.b.) All non-exempt contractors must have an approved Affirmative Action plan meeting the requirements of Article IV below on file with the Department within thirty (30) days of the effective date of this Contract and prior to release of payment by the City. Contractors that are exempt based on number of employees agree to file a Request for Exemption with the Department within thirty (30) days of the effective date and prior to release of payment by the City.

(5) Articles of Agreement:

ARTICLE I

The Contractor shall take affirmative action in accordance with the provisions of this Contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity 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, sexual orientation, gender identity 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 (MGO 39.02) including the Contract compliance requirements. The Contractor warrants and certifies that one of the following paragraphs is true (check one):

- A. Contractor 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, Contractor 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.
- C. Contractor believes it is exempt from filing an affirmative action plan because it has fewer than fifteen (15) employees and has filed, or will file within thirty (30) days after the effective date of this Contract, a form required by the City to confirm exempt status based on number of employees. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.
- D. Contractor believes it is exempt from filing an affirmative action plan because its annual aggregate business with the City for the calendar year in which the contract is in effect is less than fifty thousand dollars (\$50,000), or for another reason listed in MGO 39.02(9)(a)2. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.

### ARTICLE V

(This Article applies only to public works contracts.)

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

### ARTICLE VI

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

### ARTICLE VII

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

- A. Cancel, terminate or suspend this Contract in whole or in part.
- B. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- C. Recover on behalf of the City from the prime Contractor 0.5 percent of the Contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the Contract price, or ten thousand dollars (\$10,000), 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.)

21. 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, gender identity, 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, sexual orientation, gender identity or national origin.

22. Prevailing Wage. Where applicable under federal law, the Contractor warrants that prevailing wages will be paid to all trades and occupations.
23. 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.
24. 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.
- a. 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.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. 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.
  - f. Proof of Insurance, Approval. The Contractor shall provide the City with certificate(s) of insurance showing the type, amount, 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. If any of the policies required above expire while this Contract is in effect, Contractor shall provide renewal certificate(s) to the City for approval. Certificate Holder language should be listed as follows:  
City of Madison  
ATTN: Risk Management, Room 406  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53703
- 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.
25. 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.
26. Compliance.
- a. 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.
  - b. 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.
27. Warranty of Materials and Workmanship.
- a. 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.
  - b. Work not conforming to these warranties shall be considered defective.
  - c. 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. If this bid results in the procurement of \$5,000 or more in garments or items of clothing, any part of which is a textile, or any shoes/ footwear, then Sec. 4.25 of the Madison General Ordinances, "Procurement of Items of Apparel", is hereby incorporated by reference and made part of this contract. See Section 4.25(2) at [www.municode.com](http://www.municode.com) for applicability specifics. 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 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. Only vendors registered as of the bid due date will receive preference. Additional information is available at: [www.cityofmadison.com/business/localPurchasing](http://www.cityofmadison.com/business/localPurchasing).
32. Weapons Prohibition. Contractor shall prohibit, and shall require its subcontractors to prohibit, its employees from carrying weapons, including concealed weapons, in the course of performance of work under this Contract, other than while at the Contractor's or subcontractor's own business premises. This requirement shall apply to vehicles used at any City work site and vehicles used to perform any work under this Contract, except vehicles that are an employee's "own motor vehicle" pursuant to Wis. Stat. sec. 175.60(15m). This section does not apply to employees who are required to carry a weapon under the express terms of the Contract (such as armed security guard services, etc.).
33. Software & Technology Purchases.
- a. Software Licenses. All software license agreements shall include the City's mandatory legal terms and conditions as determined by the City Attorney. Please be advised that no City employee has the authority to bind the City by clicking on an End User License Agreement (EULA) or any other click-through terms and conditions without being specifically authorized by the City's Chief Information Officer through procedures approved by the City Attorney and Risk Manager. All legal documents associated with the purchase or download of software must be reviewed by the City Attorney and may only be signed by an individual authorized to do so.
  - b. Network Connection Policy. If this purchase includes software support, software maintenance, network services, and/or system development services and will require a Network Connection the City Network (as defined in the following link), the City's Network Connection Policy found at this link: [www.cityofmadison.com/attorney/documents/posNetworkConnection.doc](http://www.cityofmadison.com/attorney/documents/posNetworkConnection.doc) is hereby incorporated and made a part of the Contract and Contractor agrees to comply with all of its requirements.

34. Ban the Box - Arrest and Criminal Background Checks.

This provision applies to service contracts of more than \$25,000 executed by the City on January 1, 2016 or later, unless exempt by Sec. 39.08 of the Madison General Ordinances (MGO).

a. Definitions. For purposes of this requirement, "Arrest and Conviction Record" includes, but is not limited to, information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority.

"Conviction record" includes, but is not limited to, information indicating that a person has been convicted of a felony, misdemeanor or other offense, placed on probation, fined, imprisoned or paroled pursuant to any law enforcement or military authority.

"Background Check" means the process of checking an applicant's arrest and conviction record, through any means.

b. Requirements. For the duration of any contract awarded under this RFP, the successful contractor shall:

- (1) Remove from all job application forms any questions, check boxes, or other inquiries regarding an applicant's arrest and conviction record, as defined herein.
- (2) Refrain from asking an applicant in any manner about their arrest or conviction record until after a conditional offer of employment is made to the applicant in question.
- (3) Refrain from conducting a formal or informal background check or making any other inquiry using any privately or publicly available means of obtaining the arrest or conviction record of an applicant until after a conditional offer of employment is made to the applicant in question.
- (4) Make information about this ordinance available to applicants and existing employees, and post notices in prominent locations at the workplace with information about the ordinance and complaint procedure, using language provided by the City.
- (5) Comply with all other provisions of Sec. 39.08, MGO.

c. Exemptions: This section does not apply when:

- (1) Hiring for a position where certain convictions or violations are a bar to employment in that position under applicable law, or
- (2) Hiring a position for which information about criminal or arrest record, or a background check is required by law to be performed at a time or in a manner that would otherwise be prohibited by this ordinance, including a licensed trade or profession where the licensing authority explicitly authorizes or requires the inquiry in question.

To be exempt under sec. C.1. or 2. above, contractor must demonstrate to the City that there is a law or regulation that requires the background check in question. If so, the contractor is exempt from this section for the position(s) in question.

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