

City of Madison, Wisconsin

Request for Proposal

for

**Partnership for Deployment of a
Fiber-to-the-Premises (FTTP) Network**

Issued: August 30, 2017

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I. Introduction

The City of Madison, Wisconsin (City) issues this request for proposal (RFP) to convey our interest in partnering with a sophisticated and motivated partner (Partner) to bring fiber-based, Gigabit-class broadband service to the City. The successful Partner will lease access to City-owned, universally-deployed fiber-to-the-premises (FTTP) infrastructure, and will provide broadband internet service to residents, businesses, and community anchor institutions (CAIs)¹ within the City.

The City is particularly concerned with a network deployment that will further its Racial Equity & Social Justice (RESJ) goals, providing truly equitable service to all within the City, regardless of race, ethnicity, gender, sexual orientation, disability, age, income, place of birth, place of residence, or other group status. As such, the City is not interested in pursuing a model that provides only low-level service to those unable to afford a service provider's lowest prices. Although the City does not aim to dictate retail pricing structure and service levels, a Partner should be willing to work with the City to enable *all* members of our community to have access to world-class high-speed service at price points they can afford.

Through this partnership, the City seeks to increase the availability and affordability of a minimum 1 Gigabit per second (Gbps) service. The City seeks proposed approaches from for-profit and nonprofit partners that envision a long-term relationship with the City; while we prefer the business model described in Section VI, the City will not automatically disqualify proposals that suggest alternative business models. **Respondents should indicate in their Letter of Intent (Appendix A) whether they will adhere to the City's preferred business model, and complete corresponding appendices accordingly.**

We welcome responses from all prospective partners and interested entities.

Separate Business Plan and Price proposals are required. It is critical that no pricing information be included in the Business Plan Proposal. Any violation of this requirement may be grounds for disqualification.

Following response evaluations, the City may begin negotiations with preferred RFP respondent(s), issue a more detailed procurement request, cancel or delay plans to deploy an FTTP network, or choose another direction that is deemed in the community's best interest. Responding to this RFP is not a guarantee of a contract award. The City reserves the right to withdraw the RFP or any subsequent RFP, or to decline to award a contract.

¹ Community anchor institutions refer to organizations such as schools, libraries, and other entities that serve the public interest.

II. Glossary of Terms

Access Fiber – The fiber in an FTTP network that goes from the fiber distribution cabinets (FDCs) to the optical taps that are located outside of homes and businesses in the public right-of-way (PROW).

AE – Active Ethernet; a technology that provides a symmetrical (upload/download) Ethernet service and does not share optical wavelengths with other users. For subscribers that receive AE service—typically business customers that request a premium service or require greater bandwidth—a single dedicated fiber goes directly to the subscriber premises with no optical splitting.

CPE – Customer premises equipment; the electronic equipment installed at a subscriber’s home or business.

Dark Fiber – Fiber optic strands that are installed in underground conduit or attached to utility poles, but are not “lit” by network electronics.

Distribution Fiber – The fiber in an FTTP network that connects the hub sites to the fiber distribution cabinets.

Drop – The fiber connection from an optical tap in the PROW to the customer premises.

FDC – Fiber distribution cabinet; houses the fiber connections between the distribution fiber and the access fiber. FDCs, which can also house network electronics and optical splitters, can sit on a curb, be mounted on a pole, or reside in a building.

FTTP – Fiber-to-the-premises; a network architecture in which fiber optics are used to provide broadband services all the way to each subscriber’s premises.

GPON – Gigabit passive optical network; the most commonly provisioned FTTP service—used, for example, by Verizon (in its FiOS systems), Google Fiber, and Chattanooga Electric Power Board (EPB). GPON uses passive optical splitting, which is performed inside FDCs, to connect fiber from the Optical Line Terminals (OLTs) to multiple customer premises over a single GPON port.

IP – Internet Protocol; the method by which computers share data on the internet.

Lateral – A fiber cable that diverges from the main “backbone” fiber path to serve one or more sites.

MDU – Multi-dwelling unit; a large building with multiple units, such as an apartment or office building.

OLT – Optical line terminal; the upstream connection point (to the provider core network) for subscribers. The choice of an optical interface installed in the OLT determines whether the network provisions shared access (one fiber split among multiple subscribers in a GPON architecture) or dedicated AE access (one port for one subscriber).

OSP – Outside plant; the physical portion of a network (also called “layer 1”) that is constructed on utility poles (aerial) or in conduit (underground).

OSS – Operational Support Systems (OSS); includes a provider’s provisioning platforms, fault and performance management systems, remote access, and other OSS for FTTP operations. The network’s core locations house the OSS.

Passing – A potential customer address (e.g., an individual home or business).

PROW – Public right-of-way; land reserved for the public good such as utility construction. PROW typically abuts public roadways.

III. The City of Madison

Nestled between Lake Mendota to the north and Lake Monona to the south, the thriving capital city of Madison, Wisconsin offers an unparalleled quality of living coupled with top-notch culture, one of the nation’s leading research universities, and unmatched recreational opportunities. Not only was the City ranked the number one best place to live by Livability.com in 2015,² but it has also been ranked in the top ten spots on that list for three years running.³ Beyond quality of life, the City was ranked the greenest city in the nation by Nerdwallet.com, citing: “12.7 parks per 10,000 residents is the highest mark of all cities in the country.”⁴

Named for the fourth president of the United States, Madison was chosen as the state capital in 1836 and founded in the spring of 1837, beginning as a small village, with only 35 buildings, surrounded by thick forest.⁵ Incorporated as a village in 1846, and a City in 1856, the growth of state and county government, as well as key industries, including: “Oscar Mayer, French Battery Co. (Ray-o-Vac), L.L. Olds Seed Company, Gisholt Machine Tool Company, and the Fauerbach Brewery” gave the City the economic momentum it has today.⁶

² Available: <https://livability.com/best-places/top-100-best-places-to-live/2015> Accessed July, 2017

³ Available: <https://livability.com/best-places/top-100-best-places-to-live/2017> Accessed July, 2107

⁴ Available: <https://www.nerdwallet.com/blog/mortgages/greenest-cities-america/?repeat=w3tc> Accessed July, 2017

⁵ Available: <https://www.wisconsinhistory.org/Content.aspx?dsNav=N:4294963828-4294963805&dsRecordDetails=R:CS308> Accessed July 2017

⁶ Available: <http://www.historicmadison.org/Madison's%20Past/madisonpast.html> Accessed July, 2017

The estimated 2016 population of 247,207,⁷ showed an 8.6 percent increase in the past six years,⁸ with 94.8 percent of the population having obtained a high school diploma, and 55.1 percent having obtained a bachelor's degree or higher.⁹ The City has an unemployment rate of 2.0 percent,¹⁰ more than two full percentage points below the national average.¹¹ Over the last five years, the Madison Metropolitan Statistical Area has added 30,000 new jobs, and the area's GDP grew from \$23 to \$39 billion from 2001 to 2012.¹² The City's poverty rate is higher than the national average of 15.5 percent¹³ at 19 percent.¹⁴

The City is seen as a "national leader in healthcare, biotech and healthtech industries," employing 70,000 workers and contributing over \$4.6 billion annually to the economy.¹⁵ Other thriving sectors include digital technology, manufacturing, and food and food processing.¹⁶

The City spearheaded a 2016 CONNECT MADISON economic development strategy to identify five "Priority 1" projects developed out of five key strategies to further solidify and grow the City's economy. The program focuses on creating a business assistance team, identifying districts to prioritize for redevelopment, targeted business retention and expansion programs, a business coalition for modern and efficient transportation solutions, and work-based learning opportunities for youth.¹⁷

There are nine colleges in the City proper today¹⁸—the largest educational institution, the 13-school University of Wisconsin–Madison, has a main campus of 936 acres and an almost \$3 billion annual budget.¹⁹ Ranked number one in best hospitals in the state, and the top producer of Peace Corps volunteers,²⁰ the University is ranked sixth in the nation for its sheer volume of research, spending

⁷ Available:

http://www.doa.state.wi.us/Documents/DIR/Demographic%20Services%20Center/Estimates/OfficialFinalEsts_2016_summ.pdf Accessed August, 2017

⁸ Available: <https://www.census.gov/quickfacts/fact/table/madisoncitywisconsin,US/IPE120215> Accessed July, 2017

⁹ Available: https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_5YR/S1501/1600000US5548000 Accessed July, 2017

¹⁰ Available: <https://www.cityofmadison.com/finance/financial/2016/documents/MadisonCityCAFRfs.pdf> Accessed August, 2017

¹¹ Available: <https://data.bls.gov/timeseries/LNS14000000> Accessed July, 2017

¹² Available: <https://www.cityofmadison.com/dpced/economicdevelopment/health-care-technologies/305/> Accessed July, 2017

¹³ Available: https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_5YR/S1701/0100000US Accessed August, 2017

¹⁴ Available: <https://www.census.gov/quickfacts/fact/table/madisoncitywisconsin,US/IPE120215> Accessed July, 2017

¹⁵ Available: <https://www.cityofmadison.com/dpced/economicdevelopment/health-care-technologies/305/> Accessed July, 2017

¹⁶ Available: <https://www.cityofmadison.com/dpced/economicdevelopment/sectors/170/> Accessed July, 2017

¹⁷ Available:

https://www.cityofmadison.com/dpced/economicdevelopment/documents/Connect%20Madison%2012_19_16.pdf Accessed July 2017

¹⁸ Available: <http://www.collegesimply.com/colleges/wisconsin/madison/> Accessed August, 2017

¹⁹ Available: <http://www.wisc.edu/about/facts/> Accessed July 2017

²⁰ Available: <http://www.wisc.edu/pdfs/uwmadison-factsheet-apr-2017.pdf> Accessed July, 2017

\$1 billion in the area.²¹ For those not old enough to matriculate at the university level, the Madison Metropolitan School District enrolls over 27,000 students in 48 schools, with more students scoring at “advanced” levels on state reading and math tests than the statewide average.²² Beyond public education, the City is home to almost 30 private schools including Montessori, Lutheran, Catholic, and nondenominational Christian schools.²³

The City provides a wealth of activities for both residents and visitors. The famous Dane County Farmer’s Market is the country’s largest producer-only market, offering farm-fresh products from more than 300 vendors throughout the year.²⁴ Visitors to the market are mere steps from the State Capitol, and can sample some of the City’s renowned farm-to-table restaurants in minutes.²⁵ If shopping is on the itinerary, the State Street pedestrian mall has something for everyone, and the City’s 10 museums and galleries, and 18 performing arts organizations offer the perfect blend of local and world-class culture. For those who prefer to get away, the City’s more than 200 miles of trails in 25 County recreational parks and two County forests²⁶ offer expansive opportunities to experience nature without leaving home.

IV. The City’s Vision

The City envisions an FTTP deployment that will offer Gigabit-class broadband access in the community and that will be available to *all* the City’s 114,680 residential passings and 10,331 business passings (see Table 1 and Table 2 in Section VII for a breakdown of passings).²⁷ The network will provide broadband connectivity for the City’s businesses and residents. The successful respondent will quickly establish and maintain a local presence through this partnership, ideally leasing the City’s proposed fiber footprint, and provisioning service over the publicly-owned network, based on the business model described in Section VI.

We envision world-class communications infrastructure for the businesses, residents, and CAIs in the City service area—for the 21st century and beyond. The City views fiber-based broadband connectivity as an essential utility, which is why we plan to deploy an extensive dark fiber network throughout the community. Every home, business, nonprofit organization, government entity, and educational institution should have the opportunity to connect. Providing equal and affordable access to communications infrastructure and service is essential to promoting equal opportunity in business, education, employment, healthcare, and all other aspects of everyday life.

²¹ Available: <https://research.wisc.edu/> Accessed July 2017

²² Available: <https://www.madison.k12.wi.us/mmsdfact.htm> Accessed July 2017

²³ Available: <https://livability.com/wi/madison/schools/madison-wi-public-and-private-schools> Accessed July 2017

²⁴ Available: <http://www.visitmadison.com/event/dane-county-farmers-market/40821/> Accessed July 2017

²⁵ Available: <http://www.visitmadison.com/restaurants/farm-to-table/> Accessed July 2017

²⁶ Available: <https://parks-lwr.dane-county.gov/> Accessed July, 2017

²⁷ “Passings” refers to the number of households and businesses the fiber could potentially pass (potential customers).

Greater access to broadband is an important driver of lowering business costs; attracting and retaining highly skilled residents; attracting new industries and retaining existing businesses; and creating sustainable new jobs in an entrepreneurial economy based on innovation and creativity. Robust business, residential, and institutional connectivity will also expand opportunities for local students in K–12 and beyond, and enable more open government and civic engagement.

We intend to empower our citizens and local businesses to be network economy producers—not just consumers of network information and data services. Further, we intend to provide our business and CAI stakeholders with the broadband capacity they need to compete successfully in the global marketplace, and to support the local community.

V. Project Goals

The City seeks a creative partnership that will meet our current connectivity needs, and that will anticipate potential future needs. The Partner should plan for a long-term relationship with the City. The City seeks a Partner to offer fast, affordable broadband internet and data services by working with us to provision service over City-owned-and-operated fiber infrastructure that meets the City's broadband needs. The Partner will be responsible for fiber drop cable²⁸ installation to connect the customer's premises to the network, **including securing access to private easements and other private property necessary to install such network infrastructure**; all in-building wiring for structures of all sizes; all network electronics and customer premises equipment (CPEs), including securing and maintaining necessary electric power needs to support equipment; sales and marketing; customer acquisition and retention; billing; and first-level customer support. Please see the business model described in Section VI.

The City and the Partner may determine additional responsibilities for the Partner throughout this RFP and any subsequent negotiation process. The successful Partner will further define the breakdown of responsibilities in the Responsibility Division Matrix in Appendix B.

This initiative is guided by the following principles:

1. **Equity:** Every resident and business in Madison should have access to fast and affordable broadband connectivity necessary to participate and thrive in the 21st century. The City intends to prioritize providing service to traditionally underserved populations.
2. **Jobs, Innovation, Growth:** Investment in new connectivity will result in increased local employment and provide numerous economic development advantages for the entire City.

²⁸ The fiber drop cable is the fiber extension that connects the customer's premises directly to the fiber network. Typically, the fiber drop cable runs from a point in the public right of way directly into the customer's home or business.

3. **Investing in the Future:** Residents, businesses, and non-profit organizations will have affordable choices with stable rates for high quality connectivity faster than current broadband services offered today and will sustain and continue to grow educational, economic and cultural opportunities.
4. **Furtherers the City's RESJ objectives:** Enables all residents and businesses truly equitable and affordable access to service—regardless of race, ethnicity, gender, sexual orientation, disability, age, income, place of birth, place of residence or other group status.
5. **Promotes a competitive local broadband marketplace:** The partnership will facilitate a local broadband marketplace that is as competitive as reasonably possible. While this procurement seeks one partner, and the City may consider short-term exclusivity with a selected partner, a key overall goal is to foster competition in a way that supports the community's best interest.
6. **Supports unfettered access:** The FTTP network will deliver an unfettered data offering that does not impose caps or usage limits on one use of data over another (i.e., does not limit streaming). All application providers (data, voice, video, cloud services) are equally able to provide their services, and the consumer's access to advanced data will open up the marketplace.

One of the City's key priorities is to provide all members of the community the opportunity to access robust, affordable broadband service. The FTTP network will be built throughout the City with no selective targeting, or building only to the most affluent areas of a community where there is a higher likelihood of obtaining subscribers willing to pay for service, and thus seeing a quicker return on capital investment.

While the City will be responsible for deploying most of the fiber infrastructure, our preferred business model anticipates that the Partner will install fiber drop cables that will connect the customer premises to the citywide network. The fiber drop typically extends from a demarcation point in the public right-of-way (PROW) directly into the customer's premises (see Figure 1). The Partner's expansion, marketing, and deployment efforts should include *all* areas of the City, and not only those most likely to provide a quick, high return on investment.

Citizens in low-income areas are particularly vulnerable, and broadband is important to help level the playing field. As the world becomes increasingly connected, broadband access is key to education, job training, and even access to one's own medical records. We expect respondents to this RFP to be sensitive to this reality, and to be willing to work with the City to develop creative solutions for supporting all members of the community with equitable services. For the network to

have the intended economic and quality-of-life impacts, we consider both cost and availability of service to be important. We encourage responses that address both to maximize service adoption.

We understand that providing service throughout the entire City service area may seem implausible for some providers, and we intend to work with the Partner to make this an attainable goal. Respondents that believe this goal to be a barrier to their ability to successfully partner with the City should clearly articulate their reasoning, and describe how they may provide a contingency plan for communitywide FTTP access.

VI. Preferred Business Model

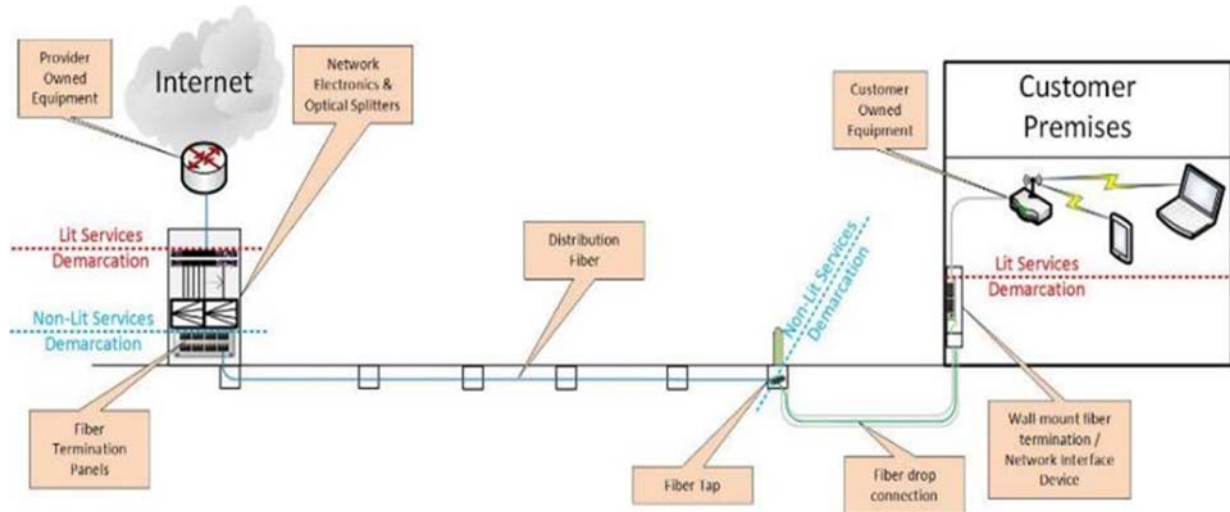
Our preferred business model is one in which the City designs, constructs, and owns dark fiber network infrastructure throughout the entirety of the community up to a demarcation point in the PROW. The City will lease access to the dark fiber backbone and distribution fiber, and the private partner will construct fiber drop cables from the PROW into the customer's premises. In this model, the Partner will also be responsible for the network electronics required to "light" the dark fiber network; the City will be responsible for non-lit services and the Partner will be responsible for lit service. Additionally, the Partner shall be responsible for CPEs and network sales, marketing, and operations for wholesale and resale services. ***Additionally, the Partner will be responsible for obtaining access to private easements and other private property where drop cables will be placed.***

In 2016, the City hired CTC Technology & Energy to perform an analysis of the feasibility of a fiber network, resulting in a high-level cost estimate and design of a ubiquitous citywide FTTP network. The partnership should either use the City's proposed network, or provide an alternative option (respondents should specify in the Letter of Intent in Appendix A whether they will adhere to the City's preferred business model and lease access to the City-owned fiber network); enable the Partner to provide and maintain services; and develop a cohesive approach to filling broadband connectivity gaps in the City of Madison.

The City prefers a business model similar to the agreement between Huntsville Utilities and Google Fiber (see Appendix G for further details of that partnership). In this model, the City will develop and construct backbone and distribution fiber up to the PROW, and the Partner will connect a drop cable that is then installed into the customer's home.

The diagram in Figure 1 illustrates the demarcation point between the City's and the Partner's responsibilities for elements of the network, as defined in the model used between Huntsville Utilities and Google Fiber. The City is responsible for non-lit portions of the network, excluding fiber drop cables. Note that the Partner will be responsible for securing access to electric power for all powered portions of the network, including network electronics and CPEs.

Figure 1: Demarcation Between City’s and Partner’s Network Elements in Huntsville Utilities Model



In this model, fiber lease payments to the City will be based only on the number of passings in the network, and there would **not** be an additional per-subscriber fee paid to the City by the partner.

VII. Pricing

As we noted, a passing is a household²⁹ or business³⁰ that is passed by the City-installed-and-operated FTTP network. Passings represent potential customers that can be connected to the network. The total number of potential passings for this RFP are indicated in the tables below.³¹

Table 1: Total Household Passings in the City of Madison

Households in Structures on Property	Total Households
1-unit	46,320
2 units	6,849
3 or 4 units	6,032
5 to 9 units	4,278
10 to 19 units	2,830
20 or more units (see note)	<u>48,371</u>
Residential Total	114,680

²⁹ Based on Madison PLGEO data.

³⁰ Based upon InfoUSA data.

³¹ While we do not expect these numbers to change significantly, the number of passings may be subject to change as census and other data is updated throughout the procurement and subsequent negotiation process. All responses to this RFP should be based on these numbers; the City will communicate readily with its Partner about any potential changes to these numbers throughout the partnership negotiation process.

Table 2: Total Business Passings in the City of Madison

Total Employees	Total Businesses
1 to 4	5,356
5 to 9	1,896
10 to 19	1,417
20 to 49	1,014
50 to 99	373
100 to 249	191
250 to 499	59
500 to 999	15
1,000 to 4,999	9
5,000 to 9,999	-
10,000 plus	<u>1</u>
Business Total	10,331

All responses should include pricing based on the number of passings in Table 1 and Table 2. Respondents should submit pricing information per the instruction in Section XII, and should submit pricing information in Appendix C, along with answers to the financial questions in Appendix D. Note that all pricing information **must be separate** from the business proposal. Please do not include any pricing information in the business proposal.

VIII. The Evaluation Process

The City asks that all respondents follow the response format outlined in Section XII, including heading numbers to enable a side-by-side comparison of potential Partners. The key determinant in the City’s decision will be the respondent’s adherence to the preferred business model, as outlined in Section VI. The City will also employ a variety of mechanisms for evaluating responses, including the respondents’ experience, as detailed per the instructions in Section XII; how well the responses address the City’s RESJ goals and other objectives; and other factors.

Following response evaluations, the City may begin negotiations with preferred RFP respondent(s), issue a more detailed procurement request, cancel or delay plans to deploy an FTTP network, or choose another direction that is deemed in the community’s best interest.

Responding to the RFP is not a guarantee of a contract award. The City reserves the right to withdraw the RFP or any subsequent RFP, or to decline to award a contract.

We ask that all respondents provide all requested material, and complete the attached Responsibility Division Matrix (Appendix B), Price Quotation (Appendix C), and Financial Questions (Appendix D), and submit each in the format (structure and page limitations) specified in the RFP instructions in XII.

Those respondents that indicate in the Letter of Intent in Appendix A that they will deviate from the City's preferred business model will receive Appendix E and Appendix F and should complete these with their response. Note that the City may give preference to respondents that adhere to our preferred business model, as outlined in Section VI.

IX. Network Design and Construction Parameters

The City plans to develop a ubiquitous FTTP network that will pass every premises in Madison, enabling a partner to easily install the fiber drop cable that will connect the customer's premises to the network. There are **114,680 total residential passings and 10,331 total business passings** in the City of Madison, as outlined in Table 1 and Table 2 in Section VII.

Note that the Partner will be responsible for fiber drop cable³² installation from the optical tap in the PROW to the customer's premises, including securing access to private easements and other private property necessary to install such network infrastructure; all in-building wiring for structures of all sizes; and all network electronics and customer premises equipment (CPEs), including securing and maintaining necessary electric power needs to support equipment.

The City anticipates the following network design and construction parameters for the City-owned network:

- Fully fiber-based connectivity to all customers;
- Fiber strand capacity capable of providing direct homerun connections to businesses and residential "power" users;
- Fiber strand capacity and physical architecture (e.g., handhole placement, backbone routes, etc.) anticipating full deployment to all homes and businesses;
- Low latency;
- Backbone topology capable of supporting connections over diverse paths from one or more central hub locations to fiber distribution cabinets located throughout the area to facilitate high-availability service offerings;
- Fiber distribution plant placed in underground conduit (as opposed to direct burial cable) to more readily facilitate repairs and capacity upgrades;
- Active components placed in environmentally hardened shelters and/or cabinets equipped with backup power generation and/or batteries, as appropriate, capable of sustaining services in the event of extended power outages;
- Fiber path diversity to public facilities to maintain continuous service even if one path is broken;

³² The fiber drop cable is the fiber extension that connects the customer's premises directly to the fiber network. Typically, the fiber drop cable runs from a point in the public right of way directly into the customer's home or business.

- Underground communications conduit pathways that the City and/or localities in our service area can use for future scalability; and
- Fiber routes align with existing City conduit and coincide with planned local public utility, roadway, and related capital improvement projects to reduce cost and minimize disruption where possible.

X. Operational Capabilities

Beyond the City's construction and fiber deployment phase, the Partner should be able to clearly explain its long-term operational plans. The Partner should provide:

1. A description of where and when the Partner has successfully maintained retail and wholesale operations in other markets. In the absence of a demonstrated track record, the Partner should provide a detailed outline of why it believes it can be successful, and its contingency plans in the event it cannot achieve the partnership's goals.
2. Examples of market share the company has obtained in other markets, and how long it has operated in those markets to achieve that share.
3. A description of the marketing plans and tools the Partner intends to use for the initial deployment, when customer acquisition is especially important.
4. Examples of project management tools and metrics the Partner has used in other markets, and examples of tools, plans, metrics, and reporting mechanisms the Partner plans to use in Madison.
5. The ongoing marketing tools and platforms the Partner will use to continue to reach the community (e.g., local radio and television outlets, social media platforms, targeted online advertisements, print advertisements) over the duration of the partnership.
6. Educational and other outreach efforts the Partner will use to demonstrate the power of a gigabit-capable network. This should include unique plans tailored to the most vulnerable populations in the City; the Partner should demonstrate an understanding of the marketing nuances between various groups within the City.
7. Names and capabilities of any outside firm(s) the Partner will engage for marketing, advertising, and operations. This should include both temporary and long-term engagements.
8. The size of the long-term technical team and breakdown of experience level of the members. The response should indicate whether the Partner will directly provide technical support or contract these responsibilities to an outside firm, and should indicate where staff will be located (e.g., will the Partner open a call center in Madison?)
9. The Partner's plan for gaining access to private easements and other private property where drop cables will be installed. If the Partner has acquired right of entry in other markets, those examples should be included here.

10. The size and breakdown of experience level of the installation crews that will be responsible for deploying fiber drop cables into customers' premises. The response should indicate whether and to what degree the Partner will hire locally for these positions, and whether any such positions will evolve into permanent, full-time employment opportunities beyond the installation phase, such as technical support.
11. Existing or newly established relationships the Partner may have within the community, relationships it envisions, and how it will cultivate and maintain those (e.g., will the Partner become a member of the Chamber of Commerce or other community organizations?) The Partner should be able to demonstrate that it will invest in the community because it plans to maintain a long-term presence.
12. The location and capability of the customer call center for all customers. The Partner should be able to demonstrate that it can meet all customers' needs in a timely, complete, and satisfactory manner.
13. The Partner's plan for seamlessly interfacing Tier 1 customer support (sales, marketing, billing, and simple technical support) with the City's Tier 2 (second level support, detailed investigation with expert technicians) and Tier 3 (third level support, service troubleshooting and software support from the engineering team) support teams.
14. An account of the Partner's intention to hire permanent local marketing, sales, billing support, customer support, technical support, and other staff—or justification for choosing not to do so.
15. A hierarchical flowchart of all operations staff, both remote and local.
16. Sales objectives in the first 1, 2, and 3 years as the project ramps up. Sales objectives in years 5, 7, and 10. While it is difficult to project many years into the future, the Partner should be able to show that it has intentions of maintaining a strong presence in Madison over the coming years, and that it is planning for the partnership beyond the initial deployment.
17. The Partner's expectations of the City to assist in marketing and advertising. The Partner should demonstrate how it intends to achieve the take rates necessary for the partnership to be successful, and whether and to what degree this plan will rely on the City or City staff and resources.

The Partner should make a significant effort to provide a response for all the items in this section, and should clearly describe any exception it takes or areas where it does not feel equipped to provide a response at this time. Preference may be given to respondents that provide complete, clear responses to each of the items in this section.

XI. City's Contributions to the Partnership

The City seeks a mutually beneficial partnership with a balance of risk and reward between the parties. The City plans to provide access to a state-of-the-art, citywide FTTP network that will pass **114,680 residential passings and 10,331 business passings** in Madison, as outlined in Table 1 and

Table 2 in Section VII. Building on the City’s existing Metropolitan Unified Fiber Network (MUFN), we expect to deploy a robust FTTP network capable of supporting the community. The MUFN network will provide fiber optic connectivity between hub sites and distribution hub sites; space at existing City facilities to be used as core and distribution sites; and access to multiple Internet points of presence (POPs) for network connectivity.

Please see Appendix H for additional information about the City’s network plans.

XII. RFP Response Format

The City requests the following information—in as much detail as is practicable—from respondents. All responses must adhere to the following response and page requirements. All respondents should follow the order and structure of the requested information, including all numbering as indicated.

Page requirements are based on Times New Roman or Calibri 12-point font with 1” margins on all sides. Start a new page for each response header. Responses that do not follow this format may be excluded from further consideration.

Separate Business and Price proposals are required. It is critical that no pricing information be included in the Business Model Proposal. Any violation of this requirement may be grounds for disqualification.

Please include your completed Appendix B with the Business Proposal, and include Appendix C and Appendix D with the Pricing Proposal.

Keep Appendix B in its native Microsoft Excel format. Keep Appendix C and Appendix D in their native PDF format.

Please provide your electronic response in either Microsoft Word or Adobe PDF format, based on the following response structure and numbering:

Business Proposal

- 1. Cover Letter:** Please include company name, address of corporate headquarters, address of nearest local office, contact name for response, and that person’s contact information (address, phone, cell, email). Keep response to one (1) page.
- 2. Business Model Summary:** Summarize the business model you intend to use for the partnership. This should be a concise explanation of the key components of your business model, including but not limited to the division of network and operations responsibility and ownership. Keep response to two (2) pages.
- 3. Affirmation:** Affirm that you are interested in this partnership and address the core project goals in Section V and business model in Section VI, above. List each goal and requirement

with a brief statement of how you will comply. Please indicate any requirements to which you take exception, and provide an explanation of the exceptions. Keep response to three (3) pages.

- 4. Operational Capabilities:** Using the guidelines in Section X, describe your operational capabilities, and how they will make your firm an attractive Partner for this project. Keep response to three (3) pages.
- 5. Schedule:** Describe your proposed schedule for implementing service. Offer a timeline with key milestones. Would you be able to begin service before the entire network is constructed? Are there areas of the greater Madison area you would recommend be constructed first? Keep response to two (2) pages (one for response, one for schedule).
- 6. Services:** Describe the service options you plan to offer over this network (for example, data only; voice and data; a triple play of voice, data, and cable television; etc.). What download/upload or symmetrical speeds would you offer and guarantee to end users? How will your residential and business offerings differ? What types of service level agreements (for lit services: availability and packet delivery) would you be prepared to offer? Keep response to two (2) pages.
- 7. Local Participation and Economic Development:** Provide a statement of how your proposed participation would help the City and the City's economic development goals. Describe your interests and plans to hire local contractors and providers in the greater Madison area, and how your participation would help local job creation. Describe your relationships with local businesses in the City, if any, as well as your interest and plans to engage them in this project. Keep response to three (3) pages.
- 8. Alignment with the City's RESJ Goals:** Provide a statement of how your proposed business model would further the City's RESJ goals in regard to addressing the Digital Divide challenge, providing truly equitable service to all within the City, regardless of race, ethnicity, gender, sexual orientation, disability, age, income, place of birth, place of residence or other group status. In particular, residents who are faced with one or more of the following issues: (1) Lack of access to service, (2) Inability to afford service, (3) Lack of knowledge of how to use computers, devices, or broadband and (4) Inability to afford computers, wireless routers, and other devices. Please be as specific as possible—will you offer discounted services? What requirements will you have of the City to support this goal? What will be your metric for determining eligibility? How will this factor into your long-term plans for the partnership? Keep response to three (3) pages.
- 9. References:** Provide a minimum of three (3) references, including contact information, from previous contracts or partnerships. Keep response to two (2) pages.

10. Appendix B: Responsibility Division Matrix in its native Microsoft Excel format.

11. RFP Forms A, B, and C: complete and return.

Price Proposal

As we have noted, it is crucial that the price proposal remain entirely separate from the business proposal.

- 1. Cover Letter:** Please include company name, address of corporate headquarters, address of nearest local office, contact name for response, and that person's contact information (address, phone, cell, email). Keep response to one (1) page.
- 2. Pricing:** Provide your approach to pricing the proposed services. For managed services, please describe factors impacting non-recurring costs (estimated fiber path distances, equipment redundancy, etc.); recurring costs for varying capacity levels; and any key technical assumptions upon which prices are based. For dark fiber offerings, please describe desired pricing models. Keep response to two (2) pages.
- 3. Appendix C: Price Quotation.** Please complete all tables and questions in the price proposal. Include the price proposal, price quotation, and financial questions separately from the Business Proposal, per the instructions in Section XIII.
- 4. Appendix D: Financial Questions.** Please thoroughly but succinctly answer all financial questions in Appendix D. These questions should be included as part of the price proposal, per the instructions in Section XIII.

Alternative Business Model Proposals

This response format is intended for those respondents that will not adhere to the City's preferred business model, as outlined in Section VI. Respondents **must** indicate in their Letter of Intent in Appendix A whether they will deviate from the City's preferred business model. Those respondents will receive Appendix E: Proposed Partnership Responsibilities for Alternative Business Models and Appendix F: Financial Responsibility Questions for Alternative Business Models.

If a respondent indicates in the Letter of Intent in Appendix A that the respondent wishes to submit one proposal that adheres to the City's preferred business model *in addition to* a response that proposes an alternative business model, the response must include Appendices B, C, D, E, and F. Failure to provide all corresponding appendices with a response may result in rejection of the response.

Respondents that wish to offer an alternative business model should provide answers to all numbered items in the Business Proposal section above in addition to answering the following:

- 1. Business Structure:** Summarize the business approach you would use for the project. How would your business plan help to meet the City's goals? What are the key assumptions? What are your main areas of risk, and how can the City help reduce the risks? What are the City's main areas of risk, and how will you reduce the risk to the City? Keep response to three (3) pages. Also, complete Appendices D and E to clarify areas of responsibility.
- 2. Experience:** Provide a statement of experience discussing past performance, capabilities, and qualifications. Identify other networks your firm has designed, built, maintained, or operated; include the levels of broadband speed, availability, and adoption among different categories of end users and unique capabilities or attributes. Discuss partnerships with other service providers, government, or nonprofit entities you have undertaken, particularly any involving dark fiber leasing. Describe the nature of the projects and your firm's role. For entities currently providing communication services in or near the City, describe your current service footprint in Madison, including a description of the type of infrastructure and services you currently offer and the technology platform(s) used. Explain how your firm is a suitable partner for this project. Keep response to two (2) pages.
- 3. Technical and Operations:** At a high level, summarize the technological and operational approach you would use for this project.

 - a. How would you use technology to meet the City's goals? Keep response to one-half (½) page.
 - b. What approach would you use to interconnect with the internet and other public networks? Keep response to one-half (½) page.
 - c. How would you perform network management? Keep response to one-half (½) page.
 - d. Under what scenarios would you require route diversity or other special features in the fiber? At what sort of facility (or facilities) would you place network electronics? Keep response to one-half (½) page.
 - e. Provide a proposed network diagram. Keep response to one (1) page.
- 4. Schedule:** Describe your proposed schedule for implementing service. Offer a timeline with key milestones. Would you be able to begin service before the entire network is constructed? Are there areas of the City you would recommend be constructed first? Keep response to two (2) pages (one for response, one for schedule).
- 5. Maintenance:** If you are proposing to perform fiber network maintenance, describe your ability to perform maintenance on an ongoing and as-needed basis. Provide estimates of the

operating cost of maintaining the fiber optic outside plant for a citywide fiber network and include your main assumptions. If you are not performing maintenance, who is? Keep response to one (1) page.

- 6. Financing and Funding:** List any requirements the City must meet for you to partner with the City on this project by completing Appendix F: Financial Responsibility Questions for Alternative Business Models.

Please also provide a one-page flow chart that shows the flow of funds between all parties in your response. Include all sources and uses of funds.

If you do not address this question, we will assume that you are interested in the partnership but have no financial requirements whatsoever of the City. Appendix F should be submitted electronically in its native PDF format. Please keep response to the guidelines of the separately attached PDF, plus the one-page flowchart.

XIII. Response Process

We ask that all respondents provide all requested material and that all respondents complete the attached Responsibility Division Matrix (Appendix B), Price Quotation (Appendix C), and Financial Questions (Appendix D), and submit each in the format (structure and page limitations) specified in the RFP instructions in XII.

Separate Business and Price proposals are required. It is critical that no pricing information be included in the Business Proposal. Any violation of this requirement may be grounds for disqualification.

Respondents must submit at least one (1) clearly labeled electronic copy of their pricing response and one (1) clearly labeled electronic copy of their business model response to:

John Alliet
bids@cityofmadison.com

City of Madison
Finance Department
City-County Building, Room 406
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

All correspondence regarding this RFP should be directed to John Alliet. The City cannot guarantee that any correspondence directed elsewhere will be received or considered.

Letter of Intent

All interested respondents are asked to submit the non-binding Letter of Intent in Appendix A electronically via email by 2:00 PM CST on September 14, 2017 to John Alliet at bids@cityofmadison.com.

Parties that submit the Letter of Intent will receive appropriate Appendices based on the business model selections the respondent makes in the Letter of Intent. All appropriate corresponding Appendices must be included in all final responses to the RFP.

The Letter of Intent should include the **company name and the name, title, phone number, and email address** of the respondent's primary point of contact, and should indicate that the respondent intends to submit a formal response to the RFP. The letter should also clearly indicate whether the respondent intends to adhere to the City's preferred business model. Please see Appendix A.

Questions

Questions related to this RFP should be emailed to John Alliet at bids@cityofmadison.com no later than **2:00 PM CST on September 22, 2017**.

Response Deadline

Final RFP submissions must be delivered via email no later than 2:00 PM CST on October 20, 2017. Please deliver (1) electronic version of the final Business RFP response, one (1) electronic version of the Pricing RFP response, and all required Appendices to the following:

John Alliet
bids@cityofmadison.com

City of Madison
Finance Department
City-County Building, Room 406
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

Late responses may not be considered.

Separate Business Plan and Price proposals are required. It is critical that no pricing information be included in the Business Plan Proposal. Any violation of this requirement may be grounds for disqualification.

Please identify any proprietary and/or confidential information contained in your response.

Summary of RFP Process Deadlines

The following is the schedule for responding to this RFP. The schedule is subject to change:

August 30, 2017 – RFP issued

September 14, 2017 – Deadline for submitting non-binding Letter of Intent in Appendix A to respond to RFP

September 15, 2017 – Release of Appendices to entities that submitted LOI in Appendix A

September 22, 2017 – Deadline for submitting questions to the City

October 6, 2017 – Responses to questions due from the City

2:00 PM on October 20, 2017 – RFP responses due

The City thanks you in advance for your thoughtful response.

XIV. Notice to Proposers

1. Labeling

All proposals must be clearly labeled:
Proposer's Name and Address
RFP #: **Error! Reference source not found.**
Title: **Error! Reference source not found.**
Due: **Error! Reference source not found.**, 2:00 PM CST

All email correspondence must include RFP #**Error! Reference source not found.** in the subject line.

2. Delivery of Proposals

Delivery of electronic copy to: via email to bids@cityofmadison.com
or via flash drive.

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.

3. Attachment 1: 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.

4. Attachment 2: Sample Contract for Purchase of Services

Proposers are responsible for reviewing this attachment prior to submission of their Proposals. 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.

5. Affirmative Action Notice

If Contractor employs 15 or more employees and does aggregate annual business with the City of \$25,000 or more for the calendar year in which the PO and/or Contract takes effect, Contractor shall file, within thirty (30) days from the PO/Contract effective date and BEFORE RELEASE OF PAYMENT, an Affirmative Action Plan (www.cityofmadison.com/dcr/aaFormsVS.cfm) 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. The Model Affirmative Action Plan for Vendors, Request for Exemption form, and instructions are available at: www.cityofmadison.com/dcr/aaForms.cfm or by contacting a Contract Compliance Specialist at the City of Madison Affirmative Action Division at (608) 266-4910.

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: If Contractor employs 15 or more employees, regardless of dollar amount, Contractor must notify the City of all external job openings at locations in Dane County, WI and Contractor agrees to interview candidates referred by the City or its designee. Job posting information is available at: www.cityofmadison.com/dcr/aaJobSkillsBank.cfm.

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 **paragraph 13 of Appendix B – Sample Contract for Purchase of Services**.

6. 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.

7. City of Madison Contact Information

The City of Madison **Error! Reference source not found.** is the procuring City of Madison **Error! Reference source not found.** agency:

PH: (608) 266-4202

pkronberger@cityofmadison.com

The City of Madison Purchasing Services John Alliet
administers the procurement function: Purchasing Services
City-County Bldg, Room 407
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703-3346
PH: (608) 266-4523
FAX: (608) 266-5948
bids@cityofmadison.com

For questions regarding Affirmative Contract Compliance
Action Plans please contact: 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 acknowledgement within twenty-four hours shall follow-up via phone with specific information identifying the originating email address for message recovery.

8. Inquiries, Clarifications, and Exceptions

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 Section 1.10.

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 9 below. Proposers are strongly encouraged to check for addenda regularly.

Proposals should be as responsive as possible to the provisions stated herein. A prospective vendor may take “exception” to bid terms, conditions, specifications and dates stated within the bid package. However, the City of Madison reserves the right to disqualify any and all bids submitted which include exceptions, if deemed not in the City’s best interests.

9. 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 10 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.

10. 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

Home Page: www.demandstar.com

To Register: www.onvia.com/WAPP

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. Partial Award

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

19. 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.

20. 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.

21. 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.

Appendix A: Letter of Intent

This Appendix is attached as a separate PDF file. Please return this **non-binding** Letter of Intent via email by **4:00 PM CST September 14, 2017** to **John Alliet** at **bids@cityofmadison.com**. Appropriate Appendices will be released to respondents upon receipt of this Letter of Intent.

Appendix B: Responsibility Division Matrix

Appendix B will be provided electronically to those parties that submit a letter of intent, per the instructions in Section XII.

Please submit Appendix B in its native Microsoft Excel format with the **Business Proposal**. Submissions that do not follow the instructions in Section XII and Section XIII may be excluded from further review.

Separate Business and Price proposals are required. It is critical that no pricing information be included in the Business Proposal. Any violation of this requirement may be grounds for disqualification.

Appendix C: Price Quotation

Appendix C will be provided electronically to those parties that submit the Letter of Intent in Appendix A, per the instructions in Section XII. Appendix C is a separate PDF file.

Please submit Appendix C in its native PDF format with the **Pricing Proposal**. Submissions that do not follow the instructions in Section XII and Section XIII may be excluded from further review.

Separate Business Model and Price proposals are required. It is critical that no pricing information be included in the Business Proposal. Any violation of this requirement may be grounds for disqualification.

Appendix D: Financial Questions

Appendix D will be provided electronically to those parties that submit the Letter of Intent in Appendix A, per the instructions in Section XII. Appendix D is a separate PDF file.

Please submit Appendix D in its native PDF format with the **Pricing Proposal**. Submissions that do not follow the instructions in Section XII and Section XIII may be excluded from further review.

Separate Business Model and Price proposals are required. It is critical that no pricing information be included in the Business Proposal. Any violation of this requirement may be grounds for disqualification.

Appendix E (Optional for Respondents that Deviate from City Business Model): Proposed Partnership Responsibilities for Alternative Business Models

Appendix E will be provided electronically to those parties that submit the Letter of Intent in Appendix A, per the instructions in Section XII, and indicate that they wish to propose an alternative approach to the City's preferred business model.

Please submit Appendix E in its native Microsoft Excel format with the **Alternative Business Model Proposal**. Submissions that do not follow the instructions in Section XII and Section XIII may be excluded from further review.

Appendix F (Optional for Respondents that Deviate from City Business Model): Financial Responsibility Questions for Alternative Business Models

Appendix F will be provided electronically to those parties that submit the Letter of Intent in Appendix A, per the instructions in Section XII, and indicate that they wish to propose an alternative approach to the City's preferred business model. Appendix F is a separate PDF file.

Please submit Appendix F in its native PDF format with the **Alternative Business Model Proposal**. Submissions that do not follow the instructions in Section XII and Section XIII may be excluded from further review.

Appendix G: Case Study: Huntsville Utilities

In February 2016, the city of Huntsville, Alabama, the state's northern technology hub, announced that its municipal electric utility, Huntsville Utilities, will build a fiber network throughout its city limits (presumably, to pass all or most businesses and homes), and that Google Fiber will lease much of that fiber in order to provide gigabit services to residences and small businesses.

The arrangement between Huntsville Utilities and Google Fiber is a variation on the model pioneered in Westminster, Maryland with its partner Ting Internet—though the payment terms are different and provide a key contrast. Google Fiber will lease fiber from Huntsville Utilities based on a rate sheet that provides for various levels of pricing based on amounts and volume. In contrast, Ting's obligations to Westminster are based in part on how much fiber it uses and in part on how many customers it secures and revenues it generates. As a result, Westminster will have less predictability and certainty about its revenues from Ting, but has the potential to share in upside in the event that Ting is very successful in that market.

As in Westminster, the Huntsville model puts the city in the business of building infrastructure, a business it knows well after a century of building roads, bridges, and utilities. The model leaves to the private sector (in this case, Google Fiber and any other provider that chooses to lease fiber from Huntsville Utilities) all aspects of network operations, equipment provisioning, and service delivery.

Interestingly, the Huntsville Utilities model holds the potential for competition among providers, as Google Fiber will not be the exclusive user of the fiber and other entities can also choose to lease fiber based on Huntsville Utilities' established rates. We anticipate that there will be other ISP users of the Huntsville Utilities fiber, particularly to serve larger businesses and institutions, though we question whether the economics exist for another provider to compete against Google Fiber in the residential market, at least in the short-term. Over the long term, however, market demand and structures may change and new opportunities for competition may arise. By building and owning its own fiber assets, the Huntsville Utilities has ensured it will be able to react to those changes and maximize the benefits.

Appendix H: City Network Design

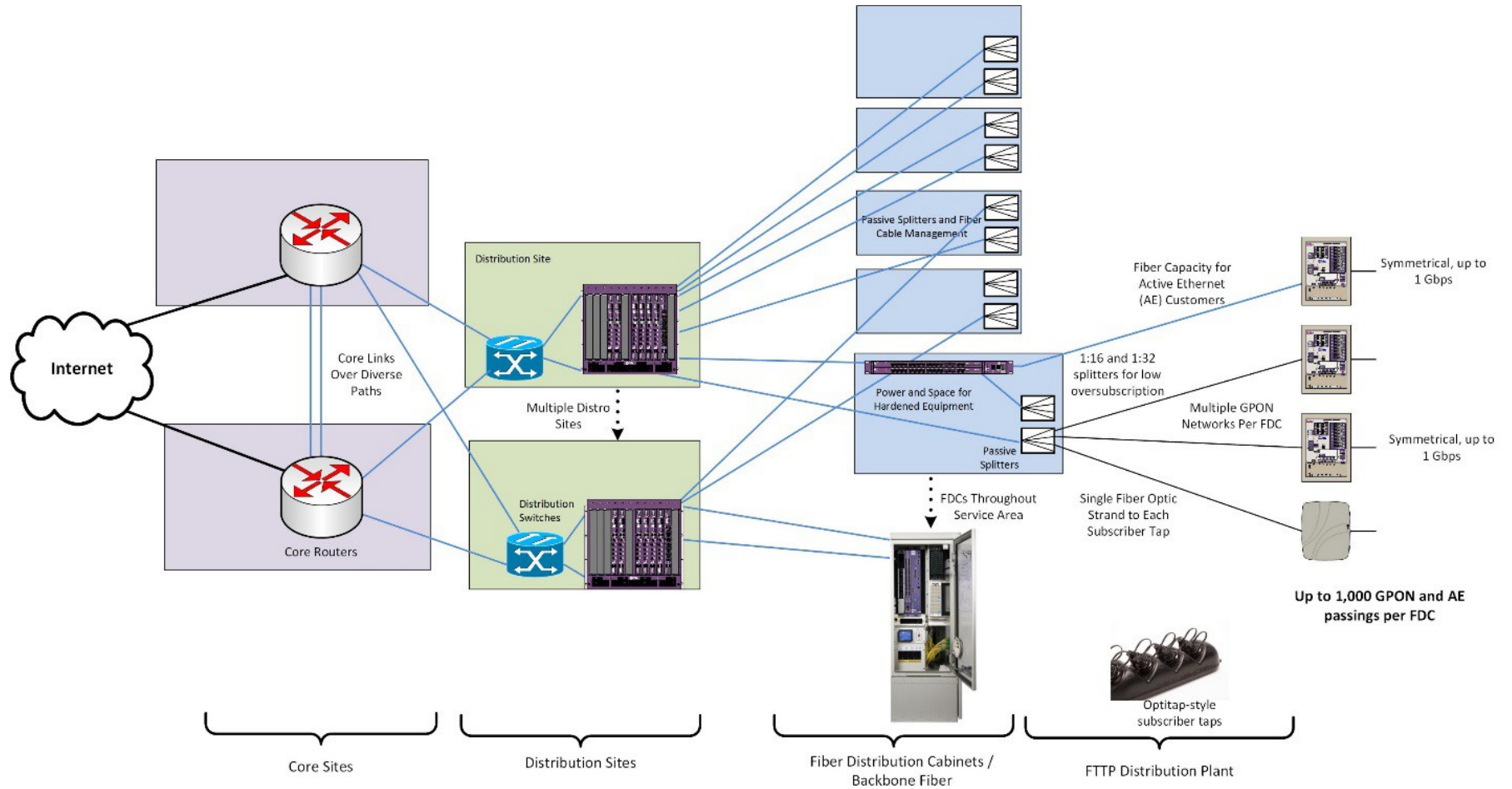
The recommended architecture is a hierarchical data network that provides critical scalability and flexibility, both in terms of initial network deployment and accommodating the increased demands of future applications and technologies. The network characteristics are:

- Capacity – ability to provide efficient transport for subscriber data, even at peak levels
- Availability – high levels of redundancy, reliability, and resiliency; ability to quickly detect faults and re-route traffic
- Diversity – physical path diversity to minimize operational impact resulting from fiber or equipment failure
- Efficiency – no traffic bottlenecks; efficient use of resources
- Scalability – ability to grow in terms of physical service area and increased data capacity, and to integrate newer technologies
- Manageability – simplified provisioning and management of subscribers and services
- Flexibility – ability to provide different levels and classes of service to different customers; can support an open access or single-provider network; can provide separation between service providers on the physical layer (separate fibers) or logical layer (separate virtual local area network (VLAN) or virtual private network (VPN))
- Security – controlled physical access to all equipment and facilities, plus network access control to devices

This architecture offers scalability to meet long-term needs. It is consistent with best practices for an open access network model that might be required to support multiple network operators, or at least multiple retail service providers requiring dedicated connections to certain customers. This design would support a combination of GPON and AE services (with the addition of electronics at the FDCs, which would enable the network to scale by migrating to direct connections to each customer, or reducing splitter ratios, on an as-needed basis.

The design assumes placement of manufacturer-terminated fiber tap enclosures within the PROW or easements. This provides water-tight fiber connectors for customer drop cables and eliminates the need for service installers to perform splices in the field. This is an industry-standard approach to reducing the customer activation times and the potential for damage to distribution cables and splices. The model also assumes termination of standard lateral fiber connections within larger multi-tenant business locations and MDUs.

Figure 2: High-Level FTTP Architecture



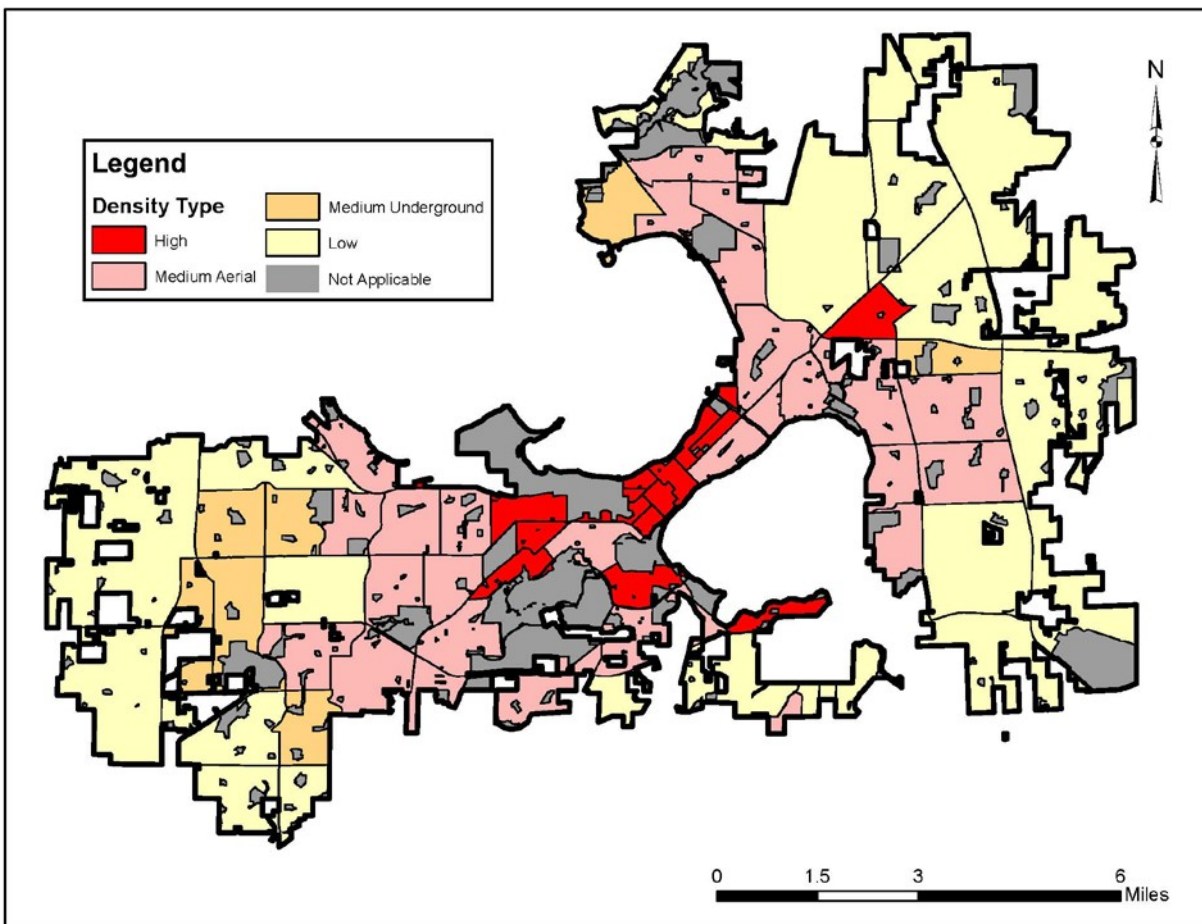
Network Design Assumption

The FTTP network and service areas were defined based on the following criteria:

- Targeting 256 to 512 passings per FDC;
- Service areas defined by passing density and existing utilities, and are broken into the categories of high, medium aerial, medium underground, and low densities;
- Service areas served by multiple FDCs;
- FDCs suitable to support hardened network electronics, providing backup power and an active heat exchange; and
- Avoiding the need for distribution plant to cross major roadways and railways.

Coupled with an appropriate network electronics configuration, this fiber design serves to greatly increase the reliability of services provided to customers as compared to that of more traditional cable and telephone networks. The backbone design minimizes the average length of non-diverse distribution plant between the network electronics and each customer, thereby reducing the probability of service outages caused by a fiber break.

Figure 3: FTTP Service Areas



The access layer of the network, encompassing the fiber plant from the FDCs to the customers, dedicates a single fiber strand from the FDC to each passing (i.e., potential customer address). This traditional FTTP design allows either network electronics or optical splitters in the FDCs. This architecture offers scalability to meet long-term needs. It is consistent with best practices for an open access network model that might potentially be required to support multiple network operators, or at least multiple retail service providers requiring dedicated connections to certain customers.

Network Core and Hub Sites

The core sites are the bridges that link the FTTP network to the public Internet and deliver all services to end users. The proposed network design includes two core locations, based on the network's projected capacity requirements and the need for geographical redundancy (i.e., if one core site were to fail, the second core site would continue to operate the network).

The location of core network facilities also provides physical path diversity for subscribers and all upstream service and content providers. This design assumes that the Madison core sites will be housed in secure locations with diverse connectivity to the Internet and MUFN.

The core locations in this plan will house providers' Operational Support Systems (OSS)³³ such as provisioning platforms, fault and performance management systems, remote access, and other OSS for FTTP operations. The core locations are also where any business partner or content / service providers will gain access to the subscriber network with their own point-of-presence. This may be via remote connection, but collocation is recommended.

The core locations are typically run in a High Availability (HA) configuration, with fully meshed and redundant uplinks to the public Internet and/or all other content and service providers. It is imperative that core network locations are physically secure and allow unencumbered access 24x7x365 to authorized engineering and operational staff.

The operational environment of the network core and hub locations is similar to that of a data center. This includes clean power sources, UPS batteries, and diesel power generation for survival through sustained commercial outages. The facility must provide strong physical security, limited/controlled access, and environmental controls for humidity and temperature. Fire suppression is highly recommended.

Equipment is to be mounted securely in racks and cabinets, in compliance with national, state, and local codes. Equipment power requirements and specification may include 48-volt DC

³³ The OSS includes a provider's provisioning platforms, fault and performance management systems, remote access, and other OSS for FTTP operations. The network's core locations house the OSS.

and/or 120/240 volts AC. All equipment is to be connected to conditioned / protected clean power with uninterrupted cutover to battery and generation.

We assume that the core and distribution hubs will be located within existing City facilities connected to MUFN.

Distribution and Access Network Design

The distribution network is the layer between the hubs and the FDCs, which provide the access links to the taps. The distribution network aggregates traffic from the FDCs to the core. Fiber cuts and equipment failures have progressively greater operational impact as they happen closer to the network core, so it is critical to build in redundancies and physical path diversities in the distribution network, and to seamlessly re-route traffic when necessary.

The distribution and access network design proposed in this report is flexible and scalable enough to support two different architectures:

1. Housing both the distribution and access network electronics at the hubs, and using only passive devices (optical splitters and patches) at the FDCs; or
2. Housing the distribution network electronics at the hubs and pushing the access network electronics further into the network by housing them at FDCs.

By housing all electronics at the hubs, the network will not require power at the FDCs. Choosing a network design that only supports this architecture may reduce costs by allowing smaller, passive FDCs in the field. However, this architecture will limit the redundancy capability from the FDCs to the hubs.

By pushing the network electronics further into the field, the network gains added redundancy by allowing the access electronics to connect to two hub sites. In the event one hub has an outage the subscribers connected to the FDC would still have network access. Choosing a network design that only supports this architecture may reduce costs by reducing the size of the hubs.

Access Network Technologies

FDCs can sit on a curb, be mounted on a pole, or reside in a building. This model recommends installing sufficient FDCs to support higher than anticipated levels of subscriber penetration. This approach will accommodate future subscriber growth with minimal re-engineering. Passive optical splitters are modular and can be added to an existing FDC as required to support subscriber growth, or to accommodate unanticipated changes to the fiber distribution network with potential future technologies.

This FTTP design also includes the placement of indoor FDCs and splitters to support MDUs. This would require obtaining the right to access the equipment for repairs and installation in whatever timeframe is required by the service agreements with the customers. Lack of access would potentially limit the ability to perform repairs after normal business hours, which could be problematic for both commercial and residential services.

In this model, we assume the use of GPON electronics for the majority of subscribers and AE for a small percentage of subscribers (typically business customers) that request a premium service or require greater bandwidth. GPON is the most commonly provisioned FTTP service—used, for example, by Verizon (in its FiOS systems), Google Fiber, and Chattanooga EPB.

Furthermore, providers of gigabit services typically provide these services on GPON platforms. Even though the GPON platform is limited to 1.2 Gbps upstream and 2.4 Gbps downstream for the subscribers connected to a single PON, operators have found that the variations in actual subscriber usage generally means that all subscribers can obtain 1 Gbps on demand (without provisioned rate-limiting), even if the capacity is aggregated at the PON. Furthermore, many GPON manufacturers have a development roadmap to 10 Gbps and faster speeds as user demand increases.

GPON supports high-speed broadband data, and is easily leveraged by triple-play carriers for voice, video, and data services. The GPON OLT uses single-fiber (bi-directional) SFP modules to support multiple (most commonly less than 32) subscribers.

GPON uses passive optical splitting, which is performed inside FDC, to connect fiber from the OLTs to the customer premises. The FDCs house multiple optical splitters, each of which splits the fiber link to the OLT between 16 to 32 customers (in the case of GPON service).

AE provides a symmetrical (up/down) service that is commonly referred to as Symmetrical Gigabit Ethernet. AE can be provisioned to run at sub-gigabit speeds, and like GPON easily supports legacy voice, voice over IP, and video. AE is typically deployed for customers who require specific service level agreements that are easier to manage and maintain on a dedicated service.

For subscribers receiving AE service, a single dedicated fiber goes directly to the subscriber premises with no splitting. Because AE requires dedicated fiber (home run) from the OLT to the CPE, and because each subscriber uses a dedicated SFP on the OLT, there is significant cost differential in provisioning an AE subscriber versus a GPON subscriber.

The fiber plant is designed to provide AE service or PON service to all passings. The network operator selects electronics based on the mix of services it plans to offer and can modify or upgrade electronics to change the mix of services.

Expanding the Access Network Bandwidth

GPON is currently the most commonly provisioned FTTP technology, due to inherent economies when compared with technologies delivered over home-run fiber³⁴ such as AE. The cost differential between constructing an entire network using GPON and AE is 40 percent to 50 percent.³⁵ GPON is used to provide services up to 1 Gbps per subscriber and is part of an evolution path to higher-speed technologies that use higher-speed optics and wave-division multiplexing.

This model provides many options for scaling capacity, which can be done separately or in parallel:

1. Reducing the number of premises in a PON segment by modifying the splitter assignment and adding optics. For example, by reducing the split from 16:1 to 4:1, the per-user capacity in the access portion of the network is quadrupled.
2. Adding higher speed PON protocols can be accomplished by adding electronics at the FDC or hub locations. Since these use different frequencies than the GPON electronics, none of the other CPE would need to be replaced.
3. Adding WDM-PON electronics as they become widely available. This will enable each user to have the same capacity as an entire PON. Again, these use different frequencies than GPON and are not expected to require replacement of legacy CPE equipment.
4. Option 1 could be taken to the maximum, and PON replaced by a 1:1 connection to electronics—an AE configuration.

These upgrades would all require complementary upgrades in the backbone and distribution Ethernet electronics, as well as in the upstream Internet connections and peering—but they would not require increased fiber construction.

³⁴ Home run fiber is a fiber optic architecture where individual fiber strands are extended from the distribution sites to the premises. Home run fiber does not use any intermediary aggregation points in the field.

³⁵ “Enhanced Communications in San Francisco: Phase II Feasibility Study,” CTC report, October 2009, at p. 205.

Customer Premises Equipment (CPE) and Subscriber Services

In the final segment of the FTTP network, fiber runs from the FDC to customers' homes, apartments, and office buildings, where it terminates at the subscriber tap—a fiber optic housing located in the PROW closest to the premises. The service installer uses a pre-connectorized drop cable to connect the tap to the subscriber premises without the need for fiber optic splicing.

The drop cable extends from the subscriber tap (either on the pole or underground) to the building, enters the building, and connects to CPEs.



Form A: Signature Affidavit

RFP #: 8663-0-2017-JA Partnership for Deployment of a Fiber-to-the-Premises (FTTP) Network

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 #: Partnership for Deployment of a Fiber-to-the-Premises (FTTP) Network

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		
Appendix A: Letter of Intent		
Appendix B: Responsibility Division (separate Excel file)*		
Appendix C: Price Quotation*		
Appendix D: Financial Questions*		
Appendix E: Proposed Partnership Responsibilities for Alternative Business Models (separate Excel file)*		
Appendix F: Financial Responsibility Questions for Alternative Business Models*		
Appendix G: Case Study: Hunstville Utilities		
Appendix H: City Network Designs		
Attachment 1: Standard Terms & Conditions	N/A	
Attachment 2: Contract for Purchase of Services	N/A	
Addendum #		
Addendum #		
Addendum #		
Addendum #		

*Appendices delivered upon submittal of Letter of Intent

VENDOR NAME

COMPANY NAME



Form C: Vendor Profile

RFP #: Partnership for Deployment of a Fiber-to-the-Premises (FTTP) Network

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

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 39.02(9) within thirty (30) days of award of contract.

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
- No**, we are not a local vendor or have not registered.

Appendix A: Letter of Intent

Please accept this non-binding Letter of Intent as _____'s indication of interest in partnering with the City of Madison, per the Request for Proposal for Partnership for Deployment of a Fiber-to-the-Premises (FTTP) Network, issued **August 2017**.

_____ intends to submit a formal response to this RFP.

Company Name: _____
Primary Point of Contact Name: _____
Primary Point of Contact Title: _____
Primary Point of Contact Phone _____
Number: _____
Primary Point of Contact Email Address: _____

Please select the **one** option below that best describes your firm's anticipated response to this RFP.

_____ Our firm will adhere to the City's preferred business model, as described in Section IV of the RFP and we request Appendix B, Appendix C, and Appendix D accordingly. We certify that we will submit these completed appendices with our final response, per the RFP instructions.

_____ Our firm will **not** adhere to the City's preferred business model, and requests the option to submit an alternative business model. As such, we request Appendix E and Appendix F, which we will complete and submit with our final RFP response.

_____ Our firm wishes to submit two responses: one that will adhere to the City's preferred business model **and** an alternative approach. As such, we request Appendix B, Appendix C, Appendix D, Appendix E, and Appendix F accordingly. We certify that we will return all completed Appendices with our final response.



CITY OF MADISON

(STC-Form: 07/26/2016)

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

*As determined by the Finance Director

**As determined by the Department of Civil Rights

(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 \$25,000 in annual aggregate business with the City in the calendar year. **CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO SEC. 20.B.(5) UPON REACHING \$25,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR.**

(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 takes effect is less than twenty-five thousand dollars (\$25,000), 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 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.)

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. 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.cityofmadison.com/finance/wage.
23. Prevailing Wage. Where applicable under federal law, the Contractor warrants that prevailing wages will be paid to all trades and occupations.
24. 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.**
25. 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, 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.
26. 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.
27. 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.

28. 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.

29. 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.

30. 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.

31. 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 Madison General Ordinances, Sec. 4.25 "Procurement of Items of Apparel", is hereby incorporated by reference and made part of this contract. See MGO 4.25(2) 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.

32. 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.

33. Equal Benefits Requirement. (Sec. 39.07, MGO)

This provision applies to service contracts of more than \$25,000 executed, extended, or renewed by the City on July 1, 2012 or later, unless exempt by Sec. 39.07 of the Madison General Ordinances (MGO).

For the duration of this Contract, the Contractor agrees to offer and provide benefits to employees with domestic partners that are equal to the benefits offered and provided to married employees with spouses, and to comply with all provisions of Sec. 39.07, MGO. If a benefit would be available to the spouse of a married employee, or to the employee based on his or her status as a spouse, the benefit

shall also be made available to a domestic partner of an employee, or to the employee based on his or her status as a domestic partner. "Benefits" include any plan, program or policy provided or offered to employees as part of the employer's total compensation package, including but not limited to, bereavement leave, family medical leave, sick leave, health insurance or other health benefits, dental insurance or other dental benefits, disability insurance, life insurance, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits.

Cash Equivalent. If after making a reasonable effort to provide an equal benefit for a domestic partner of an employee, the Contractor is unable to provide the benefit, the Contractor shall provide the employee with the cash equivalent of the benefit.

Proof of Domestic Partner Status. The Contractor may require an employee to provide proof of domestic partnership status as a prerequisite to providing the equal benefits. Any such requirement of proof shall comply with Sec. 39.07(4), MGO.

Notice Posting, Compliance. The Contractor shall post a notice informing all employees of the equal benefit requirements of this Contract, the complaint procedure, and agrees to produce records upon request of the City, as required by Sec. 39.07, MGO.

Subcontractors (Service Contracts Only). Contractor shall require all subcontractors, the value of whose work is twenty-five thousand dollars (\$25,000) or more, to provide equal benefits in compliance with Sec. 39.07, MGO.

34. 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.).

35. 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 a End User License Agreement (EULA) or any other click-through terms and conditions. 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 is hereby incorporated and made a part of the Contract and Contractor agrees to comply with all of its requirements.

36. 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.

City of Madison
CONTRACT FOR PURCHASE OF SERVICES

ATTACHMENT 2

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):

List all attachments here by name, and attach and label them accordingly.

Order of Precedence: In the event of a conflict between the terms of this Contract for Purchase of Services and the terms of any document attached or incorporated herein, the terms of this Contract for Purchase of Services shall control and supersede any such conflicting term.

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.**

This Contract for Purchase of Services, including any and all attachments, exhibits and other documents referenced in Section 3 (hereafter, "Agreement" or "Contract") is the entire Agreement of the parties and supersedes any and all oral contracts and negotiations between the parties. If any document referenced in Section 3 includes a statement that expressly or implicitly disclaims the applicability of this Contract for Purchase of Services, or a statement that such other document is the "entire agreement," such statement shall be deemed rejected and shall not apply to this Contract.

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, 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.

13. **AFFIRMATIVE ACTION.**

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

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

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

The Contractor further agrees that, for at least twelve (12) months after the effective date of this Contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines, 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. 13.A.) at the time the Request for Exemption in 13.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 \$25,000 Aggregate Annual Business with the City*	\$25,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

*As determined by the Finance Director

**As determined by the Department of Civil Rights

(1) **Exempt Status:** In this section, "Exempt" means the Contractor is exempt from the Articles of Agreement in section 13.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. 13.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 \$25,000 in annual aggregate business with the City in the calendar year. **CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS**

EXEMPTION AND BECOME SUBJECT TO SEC. 13.B.(5) UPON REACHING \$25,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR.

(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 takes effect is less than twenty-five thousand dollars (\$25,000), 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 five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the noncomplying subcontractor.

ARTICLE VIII

(This Article applies to public works contracts only.)

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

ARTICLE IX

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

14. **SEVERABILITY.**

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

15. **NOTICES.**

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

FOR THE CITY:

(Department or Division Head)

FOR THE CONTRACTOR:

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

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

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

17. **GOODWILL.**

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

18. **THIRD PARTY RIGHTS.**

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

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

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

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

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

21. **COMPLIANCE WITH APPLICABLE LAWS.**

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

22. **CONFLICT OF INTEREST.**

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

23. **COMPENSATION.**

It is expressly understood and agreed that in no event will the total compensation 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 and as may be further specified in Section 3 of this Contract. The City will pay the Contractor in accordance with the schedule, if any, set forth in Section 3. The final invoice, if applicable, shall be submitted to the City within three months of completion of services under this Agreement.
- (3) Should this Agreement contain more than one service, a separate invoice and a separate final statement shall be submitted for each individual service.
- (4) Payment shall not be construed as City acceptance of unsatisfactory or defective services or improper materials.
- (5) Final payment of any balance due the Contractor will be made upon acceptance by the City of the services under the Agreement and upon receipt by the City of documents required to be returned or to be furnished by the Contractor under this Agreement.
- (6) The City has the equitable right to set off against any sum due and payable to the Contractor under this Agreement, any amount the City determines the Contractor owes the City, whether arising under this Agreement or under any other Agreement or otherwise.
- (7) Compensation in excess of the total Contract price will not be allowed unless authorized by an amendment under Section 9, AMENDMENT.
- (8) The City will not compensate for unsatisfactory performance by the Contractor.

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

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

25. **DEFAULT/TERMINATION.**

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

26. **INDEMNIFICATION.**

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

27. **INSURANCE.**

The Contractor will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. The Contractor shall not commence work under this Contract, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by the City Risk Manager.

Commercial General Liability

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

Automobile Liability

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

Worker's Compensation

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

Professional Liability

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

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

Proof of Insurance, Approval. The Contractor shall provide the City with certificate(s) of insurance showing the type, amount, 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 still 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.

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. **EQUAL BENEFITS REQUIREMENT (Sec. 39.07, MGO.) (Applicable to contracts exceeding \$25,000).**
This provision applies to service contracts of more than \$25,000 executed, extended, or renewed by the City on July 1, 2012 or later, unless exempt by Sec. 39.07 of the Madison General Ordinances (MGO).

For the duration of this Contract, the Contractor agrees to offer and provide benefits to employees with domestic partners that are equal to the benefits offered and provided to married employees with spouses, and to comply with all provisions of Sec. 39.07, MGO. If a benefit would be available to the spouse of a married employee, or to the employee based on his or her status as a spouse, the benefit shall also be made available to a domestic partner of an employee, or to the employee based on his or her status as a domestic partner. "Benefits" include any plan, program or policy provided or offered to employees as part of the employer's total compensation package, including but not limited to, bereavement leave, family medical leave, sick leave, health insurance or other health benefits, dental insurance or other dental benefits, disability insurance, life insurance, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits.

Cash Equivalent. If after making a reasonable effort to provide an equal benefit for a domestic partner of an employee, the Contractor is unable to provide the benefit, the Contractor shall provide the employee with the cash equivalent of the benefit.

Proof of Domestic Partner Status. The Contractor may require an employee to provide proof of domestic partnership status as a prerequisite to providing the equal benefits. Any such requirement of proof shall comply with Sec. 39.07(4), MGO.

Notice Posting, Compliance. The Contractor shall post a notice informing all employees of the equal benefit requirements of this Contract, the complaint procedure, and agrees to produce records upon request of the City, as required by Sec. 39.07, MGO.

Subcontractors (Service Contracts Only). Contractor shall require all subcontractors, the value of whose work is twenty-five thousand dollars (\$25,000) or more, to provide equal benefits in compliance with Sec. 39.07, MGO.

31. **BAN THE BOX - ARREST AND CRIMINAL BACKGROUND CHECKS.** (Sec. 39.08, MGO. Applicable to contracts exceeding \$25,000.)

A. **DEFINITIONS.**

For purposes of this section, "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 this Contract, the 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 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 hiring practice in question. If so, the contractor is exempt from this section for the position(s) in question.

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).

33. **IT NETWORK CONNECTION POLICY.**

If this Contract includes services such as 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: <http://www.cityofmadison.com/attorney/documents/posNetworkConnection.doc> is hereby incorporated and made a part of this Contract and Contractor agrees to comply with all of its requirements.

34. **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.

35. **COUNTERPARTS, ELECTRONIC DELIVERY.**

This Contract may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.

SAMPLE

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

CONTRACTOR

(Type or Print Name of Contracting Entity)

By: _____
(Signature)

(Print Name and Title of Person Signing)

Date: _____

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

By: _____
Paul R. Soglin, Mayor

Date: _____

Approved:

David P. Schmiedicke, Finance Director

Date: _____

By: _____
Maribeth Witzel-Behl, City Clerk

Date: _____

Approved as to Form:

Eric T. Veum, Risk Manager

Date: _____

Michael P. May, City Attorney

Date: _____

NOTE: Certain service contracts may be executed by the designee of the Finance Director on behalf of the City of Madison:

By: _____
Randy Whitehead, CPA
Principal Accountant

_____ Date

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

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

Emergency Service contracts may also be signed by the designee of the Finance Director if the requirements of MGO 4.26(3)(c) are met.