

CITY OF MADISON

REQUEST FOR PROPOSALS



RFP #: 12033-0-2023-BG

Title: Certified Laboratory for PFAS Testing

City Agency: Public Health Madison & Dane County

Due Date: Wednesday, May 17th, 2023
2:00 PM CST

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Form A: Signature Affidavit

Form B: Receipt of Forms and Submittal Checklist

Form C: Vendor Profile

Form D: Cost Proposal

Form E: References

Appendix A: Standard Terms & Conditions (For submission of bids/in the absence of signed contract)

Appendix B: Sample Contract for Purchase of Services

1 NOTICE TO PROPOSERS

1.1 Summary

The City of Madison Public Health Madison & Dane County ("City") is soliciting Proposals from qualified vendors for Certified Laboratory for PFAS Testing. Vendors submitting Proposals ("Proposers") are required to read this Request for Proposals ("RFP") in its entirety and follow the instructions contained herein.

1.2 Important Dates

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

Issue Date: Wednesday, April 19th, 2023
Questions Due Date: Monday, April 24th, 2023
Answers Posted Date: Thursday, April 27th, 2023
Due Date: Wednesday, May 17th, 2023, 2:00 PM CST
Start of Work: Thursday, June 1st, 2023

1.3 Format

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

Cost Proposal (Form D): One Copy

The City will not consider illegible Proposals.

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

Complete and return Forms A through E to City of Madison Purchasing Services by Wednesday, May 17th, 2023, 2:00 PM CST.

1.4 Labeling

All proposals must be clearly labeled:

Proposer's Name and Address
RFP #: 12033-0-2023-BG
Title: Certified Laboratory for PFAS Testing
Due: Wednesday, May 17th, 2023, 2:00 PM CST

All email correspondence must include RFP #12033-0-2023-BG in the subject line.

1.5 Delivery of Proposals

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

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

1.6 Appendix A: Standard Terms & Conditions

Proposers are responsible for reviewing Appendix A, the Standard Terms and Conditions, prior to submission of their Proposals. Appendix A applies to the submission of proposals and in the absence of a signed contract becomes part of the contract terms. Part I of Appendix A provides legal terms relevant

only to the submission of proposals. Part II of Appendix A provides legal terms that would apply *only in the absence of a signed contract*.

1.7 Appendix B: Sample Contract for Purchase of Services

Proposers are responsible for reviewing Appendix B, Sample Contract, prior to submission of their Proposals. A contract in the form of Appendix B will serve as the basis of the contract resulting from this RFP. The resulting contract will control over any different legal terms in this RFP, Appendix A, the proposal, etc. **By submitting a proposal, Proposers affirm their willingness to enter into a contract containing the terms found in Appendix B.** While the City strives to provide the most appropriate sample contract for this RFP, the City reserves the right to modify the sample form for any resulting contract. The City does not negotiate legal terms prior to award.

1.8 Affirmative Action Notice

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

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

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

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

1.9 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.

1.10 City of Madison Contact Information

The City of Madison Public Health Madison & Dane County is the procuring agency:

John Hausbeck
City of Madison Public Health Madison & Dane County
PH: (608) 243-0331
jhausbeck@cityofmadison.com

The City of Madison
Purchasing Services
administers the procurement
function:

Brittany Garcia
Purchasing Services
City-County Bldg, Room 407
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703-3346
PH: (608) 243-0529
FAX: (608) 266-5948
bids@cityofmadison.com

For questions regarding
Affirmative Action Plans please
contact:

Contract Compliance
Department of Civil Rights
City-County Bldg., Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
PH: (608) 266-4910
dcrc@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.

1.11 Inquiries and Clarifications

Proposers are to raise any questions they have about the RFP document without delay. Direct all questions, ***in writing***, to the Purchasing Services administrator listed in 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 1.12 below. Proposers are strongly encouraged to check for addenda regularly.

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

1.12 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 1.13 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.

1.13 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: <https://www.demandstar.com/app/registration>

Please note when registering: Pick the **Wisconsin Association of Public Procurement (WAPP)** to select all current Wisconsin government agencies.

1.14 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.

1.15 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.

1.16 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.

1.17 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.

1.18 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.

1.19 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 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.

1.20 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.

1.21 Partial Award

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

1.22 Tax Exempt

The City of Madison as a municipality is exempt from payment of federal excise taxes (Registration Number 008-1020421147-08) 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.

1.23 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.

1.24 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.

2 Scope of Work

2.1 Background

Public Health Madison & Dane County is seeking qualified Contractors to perform analyses of potable water, for per- and polyfluoroalkyl substances (PFAS) in samples collected by Public Health staff. The minimum analyte list shall include the compounds specified in the Form D – Cost Proposal. Additionally, the Contractor shall hold Wisconsin Department of Natural Resources certification for EPA Method 537.1 for drinking water or any other method offered by the Wisconsin Department of Natural Resources. Maintaining certification with the Wisconsin Department of Natural Resources is essential to the services required from the Contractor. Analyses will be required for both EPA Method 537.1 and the State of Wisconsin 33 compound method “PFAS in Water”, listed in Attachment A, and are subject to change at any time. Please note the target PQL is ≤ 2.0 ng/L for each analyte when analyzing samples. If the target is PQL for potable water is not ≤ 2.0 ng/L for each analyte, the bid should include the actual or estimated PQL. The bid should include estimates of the PQL for each of the analytes specified in Attachment A.

It is intended that one primary laboratory be selected for analyses as required by Public Health Madison & Dane County. The actual amount of work assigned will depend upon the ability of the selected lab(s) to perform all of the required tests, in addition to the level of performance and capacity of the selected lab(s) and the cost of services. Contractors are hereby notified that Public Health Madison & Dane County does not guarantee any minimum quantity for any item listed in this proposal or specified in the contract. While prices must be competitive, laboratories must be able to demonstrate a consistently high level of performance with minimal supervision and contract management by Public Health Madison & Dane County staff with regard to timely, comprehensive, and accurate reports and invoicing. The term of this agreement will be for one (1) year, with the option to renew for two (2) 1-year extensions, provided both parties agree to an extension, at no more than 3% annual price increases.

2.2 Description of Required Services

1. Project Kick-off Meeting

Public Health staff and the Contractor's project team shall meet, in person or virtually, prior to project initiation to establish project manager responsibilities and to review the specifics of the required services. The Contractor must designate a capable and qualified project manager and an alternate, familiar with drinking water analytical methodologies.

2. Project Coordination

- A. The Contractor shall dedicate a project manager who will be directly responsible for the management of the contract and who is the primary Contractor contact for Public Health Madison & Dane County.
- B. The Contractor shall also provide Public Health Madison & Dane County the contact information of a backup project manager who will take over responsibilities in the project manager's absence.
- C. The Contractor will coordinate with Public Health Madison & Dane County on how to submit samples to the laboratory and determine days and hours for sample submission.
- D. Public Health Madison & Dane County reserves the right to change the number of samples collected for testing.

- E. At the beginning of any new project, the Contractor will supply Public Health Madison & Dane County with a list of all upcoming projects scheduled with the Contractor, including ship dates for sampling supplies, number of samples, pricing, and analyses requested.
- F. The Contractor shall coordinate with Public Health Madison & Dane County to ensure that all scheduling of sample analysis meets applicable requirements and regulatory deadlines.

3. Sampling Supplies

- A. The Contractor shall supply all materials and equipment for safe and method-appropriate handling, collection, preservation and shipping of samples at no additional charge. Shipping of sample containers and supplies shall be suitable for the sample matrix and analytical method.
- B. The Contractor shall provide sample bottle kits specific to each sampling location in properly sized sample coolers. A typical sample bottle kit shall include:
 - I. Properly sized sample coolers,
 - pre-labeled sample bottles,
 - II. preservatives appropriate for the analyses being performed,
 - III. trip blanks, field blanks, and other required quality control
 - IV. samples,
 - V. sufficient blue ice or re-sealable bags for wet ice to allow samples to arrive at the appropriate temperature,
 - VI. gloves, filters, hoses, etc. as appropriate for specific collection procedures,
 - VII. sufficient packing material to prevent breakage during return shipping,
 - VIII. chain of custody forms and sampling instructions, and
 - IX. return shipping airbills or other sample submission instructions
- C. The Contractor shall pre-label all bottles with the analytical method, preservative (if any), and holding time. Public Health Madison & Dane County's sampling personnel shall fill in the address sampled, sample date, and sample time on each bottle label. Public Health Madison & Dane County's Laboratory will assign a unique identifier to each sample using the laboratory's LIMS system. This number will be referred to as the Public Health Madison & Dane County Laboratory Sample ID Number.
- D. The Contractor shall deliver the sample bottle kits to Public Health Madison & Dane County as directed by Public Health Madison & Dane County's sampling personnel. Deliveries shall be made no later than the day before sampling is to occur. The Contractor shall be held responsible for any fees, fines, or other costs associated with a delay in sampling incurred by Public Health Madison & Dane County due to a failure to delivery materials in a timely manner.

4. Sample Receipt

- A. Most samples submitted to the Contractor will be scheduled for arrival regular work hours Monday through Friday.
- B. Due to the complexities of sample collection scheduling, some samples may be delivered to the Contractor outside of this time. The Contractor shall coordinate with Public Health Madison & Dane County sampling personnel to implement the appropriate after hours sample receipt procedures.

5. Analysis of Samples

- A. In addition to specific State and Federal Environmental Protection Agency (EPA) requirements, all work shall comply with all applicable governmental regulations, customary

quality standards, EPA approved analytical methods, and accepted good practice for the type of work being performed.

- B. Contractor shall analyze all samples within the allowable holding time appropriate to the method, matrix, and analysis.
- C. The Contractor when able shall not use Public Health Madison & Dane County's water samples for quality controls checks. Duplicates or any remaining sample shall be reserved in case a confirmation analysis is required whenever possible.

6. Sample Turnaround Time

- A. Accurate and complete analytical results shall be submitted to Public Health Madison & Dane County within the standard turnaround time, or within an alternate turnaround time when requested by Public Health Madison & Dane County and agreed upon by the Contractor. Standard turnaround time (TAT) for analyses will be no more than 30 calendar days from sample arrival at Contractors laboratory. Contractor shall notify Public Health Madison & Dane County promptly if the agreed-upon TAT will not be met.
- B. Public Health Madison & Dane County may request expedited samples occasionally. Pricing will be provided to Public Health Madison & Dane County at the time of expedited request.
- C. Contractor fees will be reduced by 25% if turnaround time is exceeded.

7. Analytical Reporting

- A. The Contractor shall not release any data with anomalies until approved by Public Health Madison & Dane County.
- B. Contractor shall notify Public Health Madison & Dane County immediately via email of any noncompliant sample results.
- C. The Contractor shall hold all conversations and documentation regarding Public Health Madison & Dane County -submitted samples as confidential and shall not disclose data or disseminate the contents of any Public Health Madison & Dane County report of analyses to a third party without the expressed permission of Public Health Madison & Dane County.
- D. The Contractor shall provide the final reports to Public Health Madison & Dane County in both Electronic Data Deliverables (EDDs) format and Portable Document Format (PDF) within 30 business days following sample receipt or within another turnaround time agreed to by both parties in writing.
- E. The Contractor shall submit EDDs to Public Health Madison & Dane County at the same time that hard copy reports are submitted; i.e., there will be no substantial delays between EDD submission and hard copy report submission. Hard copy reports shall include the chain of custody (COC).
- F. EDDs, PDF reports, and COC shall be made available to Public Health Madison & Dane County (as zip files if necessary) via download from the Contractor's website. An e-mail shall be sent to Public Health Madison & Dane County containing a notification of availability. EDDs, PDF reports, and COC shall be searchable on the Contractor's website by the project number, sampling date, or SAMPLE ID. EDDs, PDF reports, and COC shall be available on the Contractor's website for a minimum of 2 years.

G. The EDDs in the format specified (.xls) shall be fully compatible with Public Health Madison & Dane County in-house laboratory information management system (LIMS).

H. Final reports shall contain at least the following for each analysis:

- I. Cover page summarizing all detections and highlighting exceedances of MCLs or NLs
- II. Public Health Madison & Dane County Laboratory Sample ID Number
- III. Sample Identification
- IV. Sample Collection Date and Time
- V. Lab Receipt Date and Time
- VI. Analysis Date and Time
- VII. Analyte Tested and Test Result
- VIII. Test Method (EPA, WI 33 "PFAS in Water") and detection limits for reporting.
- IX. Test units
- X. Signature and title of laboratory personnel certifying the results
- XI. Notes and/or qualifiers regarding anomalous test results.
- XII. Copy of Chain of Custody with notations from Contractor's sample receiving staff
- XIII. QA/QC Documentation

8. Notification

A. The Contractor shall notify Public Health Madison & Dane County within 24 hours of

- I. Changes in any aspect of its operation affecting its ability to satisfactorily complete a project.
- II. Revocation of its Certification and/or Accreditation
- III. Quality assurance/Quality control failures associated with any Public Health Madison & Dane County submitted samples.
- IV. Non-compliant sample results.
- V. Problems related to the shipping or receiving of Public Health Madison & Dane County submitted samples.
- VI. Sample turnaround times not expected to be met.

9. Data Verification (After Reporting)

- A. If there is a reasonable question from Public Health Madison & Dane County regarding data validity (e.g., analytical results appreciably different from historical results), the Contractor shall re-run samples or duplicates and provide new EDDs and PDF reports at no additional charge.
- B. Laboratory errors resulting in the need for a sample to be recollected will require the laboratory to notify Public Health Madison & Dane County immediately of the need to resample, analyze, and report the results of the resample at no cost to Public Health Madison & Dane County.

10. Technical Assistance

The Contractor shall provide technical assistance as part of their fee schedule for Public Health Madison & Dane County on general and project-related questions regarding sample collection, sample analyses, sample reporting, and analytical regulatory requirements. Public Health Madison & Dane County will use discretion when requesting technical assistance.

For sample collection the Contractor should specify if they're able to provide virtual training of Public Health Madison & Dane County staff. This shall include all steps from sample collection through sample submission to the Contractor. An option for in-person training is preferred but not required.

11. Invoicing

The cost of analyses shall be invoiced monthly by the Contractor to Public Health Madison & Dane County. Invoices to Public Health Madison & Dane County for work performed must be broken down by sample location, sample date, analyses performed, quantity, unit analytical prices and total cost. Invoices for any given month must be received by Public Health Madison & Dane County no later than 30 calendar days following the end of the month in which samples were submitted to the Contractor. The Contractor must invoice for all samples collected and analyzed within the month.

12. Laboratory Subcontracting

Should the Contractor experience the need to subcontract any portion of Public Health Madison & Dane County's project, it shall be approved in writing by Public Health Madison & Dane County at least five (5) calendar days prior to the work being performed. Should the Contractor subcontract any portion of this work (with the consent of Public Health Madison & Dane County), the Contractor shall confirm to Public Health Madison & Dane County that the subcontractor has any and all permits and licenses required by virtue of this Scope and that all analytical reporting requirements of this Scope extend to the subcontractor.

13. Sample Retention and Disposal

- A. Contractor shall maintain and preserve appropriate samples, sample extracts, or the residue thereof, for thirty (30) calendar days after submission of Contractor's report to Public Health Madison & Dane County free of storage charges. After the initial thirty (30) calendar days, upon written request from Public Health Madison & Dane County, Contractor shall retain test specimens or samples for a mutually acceptable storage charge and period of time.
- B. Unless requested by Public Health Madison & Dane County to hold sample(s) for greater than thirty (30) calendar days, the sample and any articles or substances made with the sample(s) shall be disposed of in a lawful manner by the Contractor or the Contractor's representative.
- C. Contractor assumes full responsibility for the proper disposal of all test samples, test residues, and sample containers, whether hazardous or non-hazardous, at Contractor's expense.
- D. In all cases, whether the waste material is hazardous or nonhazardous, the Contractor shall list itself as "Generator" on disposal manifests.
- E. Labels on all samples shall be removed or rendered unreadable prior to disposal.

2.3 Minimum Qualifications

1. Laboratory Certification

Contractor's laboratory performing analyses on Public Health Madison & Dane County samples must be approved by the Environmental Protection Agency (EPA) for drinking water analyses and certified by the Wisconsin Department of Natural Resources (WI DNR) to perform drinking water analyses for compliance purposes in the state of Wisconsin. Maintaining certification with the Wisconsin Department of Natural Resources is essential to the services required from the Contractor. The Contractor is preferably accredited in accordance with the National Environmental Laboratory Accreditation Program (NELAP).

2. Audits

Public Health Madison & Dane County reserves the right to perform periodic on-site audits to ensure compliance with analytical method requirements, QA/QC program requirements, and to evaluate the general quality of the Contractor's work. The Contractor shall cooperate and make available records and personnel to facilitate the audits. Audits will be scheduled with sufficient notice and conducted during normal business hours.

3. QA/QC Procedures

- A. The Contractor shall maintain a QA/QC plan for each analytical facility and shall follow the SOPs contained or referenced in the plan.
- B. The Contractor shall maintain a full-time quality assurance officer at each Lab location analyzing Public Health Madison & Dane County-submitted samples.
- C. Contractor must provide a copy of their Quality Manual, Organizational Chart, and most recent Performance Evaluation Studies upon request by Public Health Madison & Dane County.

4. Laboratory Capacity and Capability

- A. During the term of the contract, the Contractor shall maintain the necessary capability and capacity to provide the laboratory services within the agreed-upon turnaround times.
- B. The Contractor shall possess the flexibility to add new projects/sample locations as needed throughout the duration of the contract.

3 MINIMUM INFORMATION REQUIRED**PROPOSAL FORMAT**

Offerors should organize Proposals into the following Sections:

- A. Professional Qualifications
- B. Past Involvement with Similar Projects
- C. Proposed Work Plan
- D. Forms

The following describes the elements that should be included in each of the proposal sections and the weighted point system that will be used for evaluation of the proposals.

A. Professional Qualifications – 20 Points

1. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include whether it is licensed to operate in the State of Wisconsin.
2. Include the name of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the project. Identify only individuals who will do the work on this project by name and title. Resumes and qualifications are required for all proposed project personnel, including all subcontractors. Qualifications and capabilities of any subcontractors must also be included.
3. State history of the firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.
4. Laboratory Certification: Contractor's laboratory performing analyses on Public Health Madison & Dane County samples must be approved by the Environmental Protection Agency (EPA) for drinking water analyses and certified by the Wisconsin Department of Natural Resources (WI DNR) to perform drinking water analyses for compliance purposes in the state of Wisconsin. Maintaining certification with the Wisconsin Department of Natural Resources

is essential to the services required from the Contractor. The Contractor is preferably accredited in accordance with the National Environmental Laboratory Accreditation Program (NELAP).

B. Past involvement with Similar Projects – 20 points

The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects for the firm and the individuals to be involved in the project. A complete list of client references must be provided for similar projects recently completed. The list shall include the firm/agency name, address, telephone number, project title, and contact person.

C. Proposed Work Plan – 25 points

Provide a detailed and comprehensive description of how the offeror intends to provide the services requested in this RFP. This description shall include, but not be limited to: how the project(s) will be managed and scheduled, how and when data and materials will be delivered to Public Health Madison & Dane County, communication and coordination, the working relationship between the offeror and Public Health Madison & Dane County staff, and the company's general philosophy in regards to providing the requested services. The proposal shall list all proposed partnering and/or subcontracting arrangements, including reporting hierarchy, entered into to provide the services requested by Public Health Madison & Dane County. Offerors shall be evaluated on the clarity, thoroughness, and content of their responses to the above items. Preference may be given to laboratories with shorter turnaround times.

D. Cost Proposal - 30 points

Attachment A and fee schedules shall be submitted in a separate, sealed, envelope as part of the proposal. Fee quotations are to be completed using the attached format with sample types and estimated quantities per year. Rates should include all shipping charges and project management expenses. Shipping and project management are not to be billed separately.

E. Local Vendor Preference – 5 points

4 REQUIRED INFORMATION AND CONTENT OF PROPOSALS

4.1 Forms

1. Form A – Signature Affidavit
2. Form B – Receipt Forms and Submittal Checklist
3. Form C – Contractor Profile Information
4. Form D – Cost Proposal
5. Form E – References



Form A: Signature Affidavit

RFP #: 12033-0-2023-BG Certified Laboratory for PFAS Testing

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 #: 12033-0-2023-BG Certified Laboratory for PFAS Testing

This form must be returned with your response.

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

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

VENDOR NAME

COMPANY NAME



Form C: Vendor Profile

RFP #: 12033-0-2023-BG Certified Laboratory for PFAS Testing

This form must be returned with your response.

COMPANY INFORMATION

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

AFFIRMATIVE ACTION CONTACT

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

<https://www.cityofmadison.com/civil-rights/contract-compliance/vendors-suppliers>

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

ORDERS/BILLING CONTACT

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

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

LOCAL VENDOR STATUS

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

CHECK ONLY ONE:

- ☐ **Yes**, we are a local vendor **and** have registered on the City of Madison website under the following category: _____ www.cityofmadison.com/business/localPurchasing
- ☐ **No**, we are not a local vendor or have not registered.



Form E: References

RFP #: 12033-0-2023-BG Certified Laboratory for PFAS Testing

This form must be returned with your response.

Please list three references that are **NOT** from the City of Madison. If you wish to highlight any additional work experience for the City of Madison, please list it on a separate page.

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

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

COMPANY NAME

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

COMPANY NAME



CITY OF MADISON

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 this bid, in whole or in part, at any time for any reason. The City may, in its sole discretion and without any reason, cancel or terminate any contract or purchase order awarded as a result of this bid, in whole or in part, without penalty, by providing ten (10) days written notice thereof to the contractor.
- a. 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.
- b. Failure to maintain the required certificates of insurance, permits, licenses and bonds will be cause for contract termination. If the Bidder fails to maintain and keep in force the insurance, if required, the City shall have the right to cancel and terminate the contract without notice.

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

12. Specifications.

- a. All bidders must be in compliance with all specifications and any drawings provided with this solicitation. Exceptions taken to these specifications must be noted on your bid.
- b. When specific manufacturer and model numbers are used, they are to establish a design, type, construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and the bidder/proposer is responsible for providing sufficient information to establish equivalency. The City shall be the sole judge of equivalency. Bidders are cautioned to avoid bidding alternates which do not meet specifications, which may result in rejection of their bid/proposal.

13. Regulatory Compliance.

- a. Seller represents and warrants that the goods or services furnished hereunder, including all labels, packages, and container for said goods, comply with all applicable standards, rules and regulations in effect under the requirements of all Federal, State and local laws, rules and regulations as applicable, including the Occupational Safety and Health Act (OSHA), as amended, with respect to design, manufacture or use for their intended purpose of said goods or services. Seller shall furnish Material Safety Data Sheets (MSDS) whenever applicable.
- b. If it is determined by the City that such standards are not met, the seller agrees to bear all costs required to meet the minimum standards as stated above for the equipment/products furnished under this contract.

14. Warranty. Unless otherwise specifically stated by the bidder, products shall be warranted against defects by the bidder for ninety (90) days from the date of receipt. If bidder or manufacturer offers warranty that exceeds 90 days, such warranty shall prevail.

15. Ownership of Printing Materials. All artwork, camera-ready copy, negative, dies, photos and similar materials used to produce a printing job shall become the property of the City. Any furnished materials shall remain the property of the City. Failure to meet this requirement will disqualify your bid.

16. Item Return Policy. Bidder will be required to accept return of products ordered in error for up to twenty-one (21) calendar days from date of receipt, with the City paying only the return shipping costs. Indicate in detail on the Bidder Response Sheet, your return policy.

17. Payment Terms and Invoicing. The City will pay properly submitted vendor invoices within thirty (30) days of receipt, providing good and/or services have been delivered, installed (if required), and accepted as specified.

- a. Payment shall be considered timely if the payment is mailed, delivered, or transferred within thirty (30) days after receipt of a properly completed invoice, unless the vendor is notified in writing by the agency of a dispute before payment is due.
- b. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order, including reference to purchase order and submittal to the correct address for processing. Invoice payment processing address is shown on the upper middle section of the purchase order. Send invoices to Accounts Payable address on the purchase order. Do not send invoices to Purchasing or ship to address.
- c. Bidders, proposers shall include discounts for early payment as a percent reduction of invoice. Invoice discounts shall be determined where applicable, from the date of acceptance of goods and/or the receipt of invoice, whichever is later. Discounts for early payment terms stated on the bid/proposal must be shown plainly on the invoice; discounts for early payment not shown on the invoice will be taken.
- d. Invoices submitted not in accordance with these instructions will be removed from the payment process and returned within ten (10) days.

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

19. **Tax Exemption.** The City of Madison is exempt from the payment of Federal Excise Tax and State Sales Tax. **The City Tax Exempt number is ES 42916.** Any other sales tax, use tax, imposts, revenues, excise, or other taxes which are now, or which may hereafter be imposed by Congress, the State of Wisconsin, or any other political subdivision thereof and applicable to the sale of material delivered as a result of the bidder's bid and which, by terms of the tax law, may be passed directly to the City, will be paid by the City.

20. **Affirmative Action.**

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

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

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

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

The Department will determine if a contractor is exempt from the above requirements (Sec. 20.A.) at the time the Request for Exemption in 20.B.(2) is made.

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

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

NUMBER OF EMPLOYEES	LESS THAN \$50,000 Aggregate Annual Business with the City*	\$50,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

*As determined by the Finance Director

**As determined by the Department of Civil Rights

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

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

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

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

(5) **Articles of Agreement:**

ARTICLE I

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

ARTICLE II

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

ARTICLE III

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

ARTICLE IV

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

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison (MGO 39.02) including the Contract compliance requirements. The Contractor warrants and certifies that one of the following paragraphs is true (check one):

- ☐ A. Contractor has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- ☐ B. Within thirty (30) days after the effective date of this Contract, Contractor will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this Contract, it will complete a model affirmative action plan approved by the Madison Common Council.
- ☐ C. Contractor believes it is exempt from filing an affirmative action plan because it has fewer than fifteen (15) employees and has filed, or will file within thirty (30) days after the effective date of this Contract, a form required by the City to confirm exempt status based on number of employees. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.
- ☐ D. Contractor believes it is exempt from filing an affirmative action plan because its annual aggregate business with the City for the calendar year in which the contract is in effect is less than fifty thousand dollars (\$50,000), or for another reason listed in MGO 39.02(9)(a)2. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.

ARTICLE V

(This Article applies only to public works contracts.)

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

ARTICLE VI

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

ARTICLE VII

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

- A. Cancel, terminate or suspend this Contract in whole or in part.
- B. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- C. Recover on behalf of the City from the prime Contractor 0.5 percent of the Contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the Contract price, or ten thousand dollars (\$10,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the noncomplying subcontractor.

ARTICLE VIII

(This Article applies to public works contracts only.)

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

ARTICLE IX

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

21. Nondiscrimination. During the term of this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs

or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

22. Prevailing Wage. Where applicable under federal law, the Contractor warrants that prevailing wages will be paid to all trades and occupations.
23. **Indemnification.** The Contractor shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of Contractor and any of Contractor's subcontractors in the performance of this agreement, whether caused by or contributed to by the negligence of the City or its officers, officials, agents or employees.
24. Insurance.
The Contractor will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. The Contractor shall not commence work under this Contract, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by the City Risk Manager.
- 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.
25. Work Site Damages. Any damage, including damage to finished surfaces, resulting from the performance of this contract shall be repaired to the Owner's satisfaction at the Contractor's expense.
26. Compliance.
- 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.
27. Warranty of Materials and Workmanship.
- The Contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the work under the Contract shall be new, first class, and in accordance with the Contract Documents. The Contractor further warrants that all workmanship shall be first class and in accordance with the Contract Documents and shall be performed by persons qualified in their respective trades.
 - Work not conforming to these warranties shall be considered defective.

c. This warranty of materials and workmanship is separate and independent from and in addition to any other guarantees in this Contract.

28. Replacement of Defective Work or Materials. Any work or material found to be in any way defective or unsatisfactory shall be corrected or replaced by the Contractor at its own expense at the order of the City notwithstanding that it may have been previously overlooked or passed by an inspector. Inspection shall not relieve the Contractor of its obligations to furnish materials and workmanship in accordance with this contract and its specifications.
29. Reservation of the Right to Inspect Work. At any time during normal business hours and as often as the City may deem necessary, the Contractor shall permit the authorized representatives of the City to review and inspect all materials and workmanship at any time during the duration of this contract, provided, however, the City is under no duty to make such inspections, and any inspection so made shall not relieve the Contractor from any obligation to furnish materials and workmanship strictly in accordance with the instructions, contract requirements and specifications.
30. Sweatfree Procurement of Items of Apparel. If this bid results in the procurement of \$15,000 or more in garments or items of clothing, any part of which is a textile, or any shoes/ footwear, then Sec. 4.25 of the Madison General Ordinances, "Procurement of Items of Apparel", is hereby incorporated by reference and made part of this contract. See Section 4.25(2) at www.municode.com 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:
- Withholding of payments under an existing contract.
 - 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.
 - Termination, suspension or cancellation of a contract in whole or in part.
 - Nonrenewal when a contract calls for optional renewals.
 - 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:
 - Progress toward implementation of the standards in this Ordinance is no longer being made; and
 - 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.
 - Disqualification of the contractor from bidding or submitting proposals on future City contracts, or from eligibility for future city procurements as defined in sub. (2), whether or not formal bidding or requests for proposals are used, for a period of one (1) year after the first violation is found and for a period of three (3) years after a second or subsequent violation is found. The disqualification shall apply to the contractor who committed the violation(s) whether that be under the same corporate name, or as an individual, or under the name of another corporation or business entity of which he or she is a member, partner, officer, or agent.
- The exercise by the City of any or all of the above remedies, or failure to so exercise, shall not be construed to limit other remedies available to the City under this Contract nor to any other remedies available at equity or at law.
31. Local Purchasing. The City of Madison has adopted a local preference purchasing policy granting a 5 percent request for proposal and 1 percent request for bid scoring preference to local vendors.
- To facilitate the identification of local suppliers, the City has provided an on-line website as an opportunity for suppliers to voluntarily identify themselves as local, and to assist City staff with their buying decisions. Proposers seeking to obtain local preference are required to register on the City of Madison online registration website. Only vendors registered as of the bid due date will receive preference. Additional information is available at: <https://www.cityofmadison.com/finance/purchasing/local-businesses/register-business/>.
32. Weapons Prohibition. Contractor shall prohibit, and shall require its subcontractors to prohibit, its employees from carrying weapons, including concealed weapons, in the course of performance of work under this Contract, other than while at the Contractor's or subcontractor's own business premises. This requirement shall apply to vehicles used at any City work site and vehicles used to perform any work under this Contract, except vehicles that are an employee's "own motor vehicle" pursuant to Wis. Stat. sec. 175.60(15m). This section does not apply to employees who are required to carry a weapon under the express terms of the Contract (such as armed security guard services, etc.).
33. Software & Technology Purchases.
- Software Licenses. All software license agreements shall include the City's mandatory legal terms and conditions as determined by the City Attorney. Please be advised that no City employee has the authority to bind the City by clicking on an End User License Agreement (EULA) or any other click-through terms and conditions without being specifically authorized by the City's Chief Information Officer through procedures approved by the City Attorney and Risk Manager. All legal documents associated with the purchase or download of software must be reviewed by the City Attorney and may only be signed by an individual authorized to do so.

- b. Network Connection Policy. If this purchase includes software support, software maintenance, network services, and/or system development services and will require a Network Connection the City Network (as defined in the following link), the City's Network Connection Policy found at this link: www.cityofmadison.com/attorney/documents/posNetworkConnection.doc is hereby incorporated and made a part of the Contract and Contractor agrees to comply with all of its requirements.

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

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

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

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

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

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

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

- c. Exemptions: This section does not apply when:

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

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

CONTRACT FOR PURCHASE OF SERVICES

Board of Health for Madison and Dane County

on behalf of Public Health Madison & Dane County

1. **PARTIES.**

This is a Contract between the Board of Health for Madison and Dane County (a city-county board of health with the powers and duties set forth in Wis. Stat. § 251.04) on behalf of Public Health Madison & Dane County, a city-county health department established under Wis. Stat. § 251.02(1m) ("PHMDC"), 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.**

The purpose of this Contract is for Contractor to perform (short general description of what the contractor will do) as more particularly described in the attachment(s) referenced below. **Contractor will perform the following services and be paid according to the following schedule(s) or attachment(s):**

Identify and list attachments here, by title. Label all attachments to match the title given here.

GRANT CONDITIONS: This Contract ☐ is / ☐ is not (check one) funded in whole or in part with grant funding provided by: _____
(insert name of governmental agency or agencies providing grant funding for this Contract.)

If this Contract is funded by a governmental grant in whole or in part, as indicated above, labeled and attached as Exhibit _____ are the grant conditions required by the funding agency, which are hereby incorporated and made part of this Contract.

4. **TERM AND EFFECTIVE DATE.**

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

5. **ENTIRE AGREEMENT.**

This Contract for Purchase of Services and all attachments, exhibits and documents referenced in Section 3 ("Contract" or "Agreement") represents the entire agreement of the parties, and this Contract supersedes any and all oral agreements, discussions and negotiations between the parties on this subject.

6. **ASSIGNABILITY/SUBCONTRACTING.**

Contractor shall not assign or subcontract any interest or obligation under this Contract without PHMDC's prior written approval. All of the services required hereunder will be performed by Contractor and employees of Contractor, unless prior written approval for subcontractor(s) is given by PHMDC.

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 14, Notices.
- B. In the event of the death, disability, removal or resignation of the person designated above as the Contract agent, PHMDC may accept another person as the Contract agent or may terminate this Agreement under Section 24, at its option.

8. **PROSECUTION AND PROGRESS.**

- A. Services under this Agreement shall commence upon written order from PHMDC 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 PHMDC 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 PHMDC in the event of a delay attributable to PHMDC, 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 PHMDC, the Contractor shall notify PHMDC 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 PHMDC with each invoice under Section 23 of this Agreement, and at such other times as PHMDC may specify, unless another procedure is specified in Section 3.
- E. The Contractor shall notify PHMDC in writing when the Contractor has determined that the services under this Agreement have been completed. When PHMDC determines that the services are complete and are acceptable, PHMDC 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.**

PHMDC may require the Contractor to perform extra services or decreased services, according to the procedure in Section 23. 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 in Section 22 unless this 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 PHMDC 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 PHMDC 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. **NONDISCRIMINATION, CIVIL RIGHTS COMPLIANCE, AFFIRMATIVE ACTION, EQUAL OPPORTUNITY**

The Board of Health for Madison and Dane County (BOHMD) has adopted, by resolution, Dane County's affirmative action plan, equal opportunities/nondiscrimination in employment practices plan, and provision of services plan. This includes Dane County's affirmative action, equal opportunity and nondiscrimination policies and ordinances regarding contracting. The Contractor agrees to submit to the jurisdiction of Dane County's Tamara D. Grigbsy Office for Equity and Inclusion for purposes of enforcement and investigation of the following provisions, to the extent such provisions apply to Contractor.

A. Nondiscrimination (D.C. Ord. 19.54).

During the term of this Agreement, Contractor agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). Contractor agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

B. Civil Rights Compliance.

- (1) Unless exempt under paragraph B.(7) below, If CONTRACTOR has 20 or more employees and receives \$20,000 in annual contracts with PHMDC, the CONTRACTOR shall submit to Dane County's Tamara D. Grigbsy Office for Equity and Inclusion a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. Unless exempt, CONTRACTOR shall also file an Affirmative Action (AA) Plan with Dane County in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. CONTRACTOR shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by PHMDC. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period.
- (2) Unless exempt under paragraph B.(7) below, contractors who have fewer than twenty (20) employees, but who receive more than \$20,000 from PHMDC in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein.
- (3) If CONTRACTOR submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by PHMDC under this Agreement, a verification of acceptance by the State of CONTRACTOR's Plan is sufficient for compliance with any plan submittals required in this Agreement.
- (4) CONTRACTOR agrees to comply with Dane County's civil rights compliance policies and procedures. CONTRACTOR agrees to comply with civil rights monitoring reviews performed by Dane County on behalf of PHMDC, including the examination of records and relevant files maintained by the CONTRACTOR. CONTRACTOR agrees to furnish all information and reports required by Dane County as they relate to affirmative action and non-discrimination. The CONTRACTOR further agrees to cooperate with PHMDC and Dane County's Tamara D. Grigbsy Office for Equity and Inclusion in developing, implementing, and monitoring corrective action plans that result from any reviews.
- (5) CONTRACTOR shall post the Equal Opportunity Policy, the name of the CONTRACTOR's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, and applicants for employment and employees. The complaint process will be according to Dane County's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. CONTRACTOR shall supply to the Dane County Contract Compliance specialist upon request a summary document of all client complaints related to perceived discrimination in

service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.

- (6) CONTRACTOR shall provide copies of all announcements of new employment opportunities to PHMDC via the Dane County Contract Compliance specialist when such announcements are issued.
- (7) If CONTRACTOR is a government entity having its own Civil Rights Compliance plan, CONTRACTOR'S plan shall govern CONTRACTOR's activities and paragraph B.(1) above shall not apply.

C. Affirmative Action.

- (1) Unless exempt under paragraph C. 4. below, if CONTRACTOR has twenty (20) or more employees and receives \$20,000 in annual contracts with PHMDC, CONTRACTOR shall file an Affirmative Action Plan with the Dane County Contract Compliance specialist in accord with chapter 19 of the Dane County Code of Ordinances. Such plan must be filed within fifteen (15) days of the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by PHMDC.
- (2) CONTRACTOR shall also, during the term of this Agreement, provide copies of all announcements of employment opportunities to Dane County's Contract Compliance specialist, and shall report annually the number of persons, by race, ethnicity, gender, and disability, status, who apply for employment and, similarly classified, the number hired and the number rejected.
- (3) CONTRACTOR agrees to furnish all information and reports required by Dane County's Contract Compliance specialist as the same relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine compliance with the applicable sections of chapter 19 of the Dane County Ordinances, and the provisions of this Agreement. (D.C. Ord. 19.54(4).)
- (4) If Contractor is a government entity having its own Affirmative Action Plan, Contractor's plan shall govern contractor's activities and paragraph C.(1) above shall not apply.

D. Americans with Disabilities Act compliance; Bilingual Services.

- (1) CONTRACTOR and all Subcontractors agree not to discriminate on the basis of disability in accordance with The Americans with Disabilities Act (ADA) of 1990, the Wisconsin Statutes secs. 111.321 and 111.34, and applicable sections of Chapter 19 of the Dane County Code of Ordinances. CONTRACTOR agrees to post in conspicuous places, available to employees, service recipients, and applicants for employment and services, notices setting forth the provisions of this paragraph.
- (2) CONTRACTOR shall give priority to those methods that offer programs and activities to disabled persons in the most integrated setting. Where service or program delivery is housed in an inaccessible location, and accessible alterations are not readily achievable, CONTRACTOR agrees to offer "programmatic accessibility" to recipients (real or potential) of said services and programs (e.g. change time/location of service).
- (3) CONTRACTOR agrees that it will employ staff with bilingual, special translation, and sign language skills appropriate to the needs of the client population, or will purchase the services of qualified adult interpreters who are available within a reasonable time to communicate with limited English proficient and hearing impaired clients. CONTRACTOR agrees to refrain from the use of family members or friends as language interpreters unless specifically requested by the consumer and after a qualified agency interpreter has been offered. CONTRACTOR agrees to train staff in human relations techniques, sensitivity to persons with disabilities and sensitivity to cultural characteristics. CONTRACTOR agrees to make programs and facilities accessible, as appropriate, through outstations, authorized representatives, adjusted work hours, ramps, doorways, elevators, or ground floor rooms. CONTRACTOR agrees to provide, free of charge, all documents necessary to its clients' meaningful participation in CONTRACTOR's programs and services in alternative formats and languages appropriate to the needs of the client population, including, but not limited to, Braille, large print and verbally transcribed or translated taped information. CONTRACTOR agrees to maintain comprehensive policies to ensure compliance with Title VI of the Civil Rights Act of 1964, updated to address the needs of employees, and clients with limited English proficiency. The CONTRACTOR agrees that it will train its staff on the content of these policies and will invite its applicants and clients to identify themselves as persons needing additional assistance or accommodations in order to apply for or participate in CONTRACTOR's programs and services.

E. Equal Opportunity Notice. (D.C. Ord. 19.54(2), 19.56)

In all solicitations for employment placed on CONTRACTOR's behalf during the term of this Agreement, CONTRACTOR shall include a statement to the effect that CONTRACTOR is an "Equal Opportunity Employer."

13. 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.

14. 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 PHMDC:

Janel Heinrich, MPH, MA, Director

Public Health Madison & Dane County

210 Martin Luther King Jr. Blvd., Rm. 507

Madison, WI 53703

FOR THE CONTRACTOR:

15. STATUS OF CONTRACTOR/INDEPENDENT/TAX FILING.

It is agreed that Contractor is an independent Contractor and not an employee of PHMDC, 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 PHMDC of Madison.

Contractor shall provide its taxpayer identification number (or social security number) to the City of Madison 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.

16. GOODWILL.

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

17. 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.

18. AUDIT AND RETAINING OF DOCUMENTS.

The Contractor agrees to provide all reports requested by PHMDC 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 PHMDC'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 PHMDC or its designee.

19. 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.

20. 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.

21. 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 of Madison or Dane County within PHMDC for any services under the provisions of this Agreement.

22. COMPENSATION.

It is expressly understood and agreed that in no event will the total compensation for services under the initial term of this Contract exceed \$_____.

23. **BASIS FOR PAYMENT.****A. GENERAL**

- (1) PHMDC will pay the Contractor for the completed and accepted services rendered under this Contract at the Contract price set forth in Section 22. PHMDC 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 in a format approved by the City of Madison Finance Director or PHMDC staff or as specified in attachments referenced in Section 3 of this Contract. PHMDC will pay the Contractor according to the schedule set forth in the attachments, or if none, as set forth herein. The final invoice shall be submitted to PHMDC within three (3) months of completion of services under this Agreement.
- (3) Should this Contract include 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 PHMDC acceptance of unsatisfactory or defective services or improper materials.
- (5) Final payment of any balance due the Contractor will be made upon acceptance by PHMDC of the services under the Contract and upon receipt by PHMDC of documents required to be returned or to be furnished by the Contractor under this Contract.
- (6) PHMDC has the equitable right to set off against any sum due and payable to the Contractor under this Contract, any amount PHMDC determines the Contractor owes PHMDC, whether arising under this Contract 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) PHMDC 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 PHMDC, using the procedure set forth in Section 14, NOTICES unless a different procedure is set forth in the attachment(s) referenced in Section 3.
- (2) PHMDC 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 PHMDC, pursuant to Section 14 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) PHMDC 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 PHMDC in writing.

24. **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, PHMDC 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, PHMDC 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, PHMDC will pay for all work completed by the Contractor and accepted by PHMDC.

25. **INDEMNIFICATION AND INSURANCE.**

- A. **INDEMNIFICATION:** Contractor shall be liable to and hereby agrees to indemnify, defend and hold harmless the Board of Health for Madison and Dane County, Public Health Madison & Dane County, the City of Madison, and the County of Dane, and their officers, officials, agents, boards, committees/commissions, agencies and employees (collectively, the "Indemnified Parties") against any and all liability, loss or expense (including liability costs and attorney's fees) by reason of any claim or suit or liability imposed by law upon the Indemnified Parties for damages for any reason, including but not limited to property damage or loss of use thereof, bodily injury, or death at any time resulting therefrom, sustained by any person or persons arising from, in connection with, caused by or resulting from the Contractor's acts or omissions in the performance of this Contract. The obligations of Contractor under this paragraph shall survive the expiration or termination of this Contract.
- B. **INSURANCE.** In order to protect itself and the Indemnified Parties under paragraph 26.A. above, Contractor shall obtain and at all times during the term of this Contract keep in full force and effect comprehensive general liability and auto liability insurance policies (as well as professional malpractice or errors and omissions coverage, if the services being provided are professional services) issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. PHMDC shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this Contract, Contractor shall furnish the Risk Manager for Dane County with a certificate of insurance listing BOHMD, PHMDC, the City of Madison and the County of Dane as additional insureds and, upon request, certified copies of the required insurance policies. If Contractor's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the effective date of this Contract. The Certificate of Insurance shall state that coverage is Claims-Made and

indicate the Retroactive Date. Contractor shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. Contractor shall furnish the Risk Manager for Dane County, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage while the Contract is in effect. It is further agreed that Contractor shall furnish the Dane County Risk Manager with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either Contractor or PHMDC may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by Contractor. In the event any action, suit or other proceeding is brought against the indemnified parties upon any matter herein indemnified against, PHMDC shall give reasonable notice thereof to Contractor and shall cooperate with Contractor (or Contractor's attorney) in the defense of the action, suit or other proceeding. Contractor shall furnish evidence of adequate Worker's Compensation Insurance.

- C. In case of any sublet or subcontracting of work under this Agreement, Contractor shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of Contractor.
- D. The parties do hereby expressly agree that PHMDC, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by the Risk Manager taking into account the nature of the work and other factors relevant to PHMDC's exposure, if any, under this Contract.

26. **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 PHMDC and/or the Grantor of any grant agreement funding this Contract, when applicable ("Grantor"). 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 PHMDC. The grant or denial of such permission shall be at PHMDC's sole discretion.

The Contractor intends that the copyright to the Documents shall be owned by PHMDC and/or Grantor, whether as author (as a Work Made For Hire), or by assignment from Contractor to PHMDC. 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 entering into this Contract, the Contractor hereby assigns to PHMDC and/or the Grantor 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. PHMDC and/or Grantor shall be entitled to the sole and exclusive benefit of the Documents, including the copyright thereto, and whenever required by PHMDC or Grantor, the Contractor shall at no additional compensation, execute all documents of assignment of the full and exclusive benefit and copyright thereof to PHMDC and/or Grantor. 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 PHMDC and/or Grantor, before commencing work.

27. **IT NETWORK CONNECTION POLICY.**

The City of Madison provides the IT network for PHMDC. If this Contract includes services such as software support or maintenance, network services, or system development that will require a "Network Connection" to the City's network (as defined in the following link), then the Contractor must agree and follow the City of Madison's Network Connection Policy, linked here: <http://www.cityofmadison.com/attorney/documents/posNetworkConnection.doc>. By signing this Contract, Contractor agrees to follow this Network Connection Policy, when applicable, whether or not Contractor has signed the linked agreement.

28. **AUTHORITY.**

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

29. **COUNTERPARTS, ELECTRONIC SIGNATURE AND 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; and this Contract may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. 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.

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: _____

**BOARD OF HEALTH FOR MADISON & DANE COUNTY, ON
BEHALF OF PUBLIC HEALTH MADISON & DANE COUNTY:**

By: _____
Janel Heinrich, MPH, MA, Director
Public Health Madison & Dane County

Date: _____

Approved:

Approved:

David P. Schmiedicke, City of Madison Finance Director

Wesley Sparkman, Director
The Tamara D. Grigsby Office for Equity and Inclusion
Dane County

Date: _____

Date: _____

Approved as to Form:

Approved:

Michael Haas, City Attorney, City of Madison
Attorney for PHMDC

Daniel M. Lowndes, Dane County Risk Manager
Risk Manager for PHMDC

Date: _____

Date: _____

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

By: _____
Mary Richards
Procurement Supervisor, City of Madison

Date