



Request for City Council Committee Action from the Department of BIS

Date March 8, 2010

To: The Honorable Betsy Hodges, Chair, Ways and Means Committee

Subject: BIS Master Contract Program

Recommendation Recommend approval of the attached BIS Master Contract Document

Prepared by Barb Malinski, Associate Contract Administrator, 673-3249

Submitted by Lynn C. Willenbring _____, 673-2927
Chief Information Officer

Approved by Steven Bosacker _____
City Coordinator

Presenter in Committee Lynn Willenbring

Policy Review Group X Not Applicable

Permanent Review Committee (PRC) X Awaiting Approval

Prior Related Directives:

On December 29, 2000, the City Council approved the Business Information Services (BIS) Department use of the State of Minnesota's list of qualified technology contractors for its contracts. By using City requirements, the Council permitted qualifying contractors to execute contracts with BIS. This contract process was approved for a period of three years with an additional one-year extension until the State of Minnesota updated its list. This contract process expired April 15, 2005.

On March 11, 2005, the City Council approved the BIS Department to issue new master contracts for up to \$2,500,000 each over a five-year period with technology providers selected through the then current State of Minnesota Request for Proposal (RFP) process. Contracts were issued to technology providers that were interested in enrolling in the program. When a technology opportunity became available, BIS would issue an RFP and select

a qualified contract master contract vendor to issue an individual scope of work to. No scope of work could exceed \$500,000 without prior approval by the City Council.

Financial Impact: None.

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to department's finance contact prior to the Committee Coordinator

Background/Supporting Information

Under a separate request for council action, BIS is requesting continuing the master contract program for another four-year period.

BIS is also seeking Council approval of the attached master contract document.

Cc: Master Contract Document

MASTER CONTRACT
BETWEEN THE CITY OF MINNEAPOLIS
AND

FOR PROFESSIONAL SERVICES

THIS CONTRACT, entered into this _____ day of _____, 20____, by and between the City of Minneapolis, (herein called the "City"), and _____, (herein called the "Contractor").

WHEREAS, the Contractor, a _____ (type of legal entity) under the law of the State of _____, is considered by the City to be qualified to provide professional services; and

WHEREAS, the City wishes to engage the Contractor to assist the City in utilizing designated funds to support Information and Technology Services and City technology projects,

NOW, THEREFORE, it is agreed between the parties hereto that:

A. TIME OF PERFORMANCE

This Master Contract shall be in effect from the date above through June 30, 2014 unless terminated earlier through Addendum A, paragraph 22 Termination.

B. COMPENSATION

The compensation to be paid to the Contractor under this Contract shall not exceed \$2,500,000, including all compensation and reimbursable expenses. A Scope of Service or Work resulting from responses to Request for Proposals (RFP) will not exceed \$500,000 without Formal Council Approval. Rates to be paid will be no higher than the rates on the attached proposal as submitted to the State of Minnesota.

All services or work provided by the Contractor under specific agreement, herein defined as a "Scope of Service or Work," must be performed to the City's satisfaction, as reasonably determined by the City Project Manager (IT Service personnel assigned to oversee the Scope of the Service or Work) and in accordance with all applicable Federal, State, and local laws, ordinances, rules and regulations. The Contractor will not receive payment for services or work found by the City to be unsatisfactory or performed in violation of Federal, State, or local law. If services or work are discovered to be faulty after the invoice is paid, the Contractor will remit back to the City the amount paid on faulty services or work.

C. ADMINISTRATIVE PROCESS

This Master Contract will be administered by the City and Contractor using the Master Contract Administrative Process on the City Internet Web Site, with all parties understanding that the City may update this process at any time during the term of the Master Contract. The Contractor agrees to be bound by this process. The process in place as of the date above is attached.

D. NOTICES

Communication and details concerning this Master Contract shall be directed to the following Contract Representatives:

CONTRACTOR
(Representative)
(Company name)
(Address)
(City, state, zip code)

CITY
Robert Arko, Contract Administrator
Business Information Services
310 4th Avenue South, Suite 400
Minneapolis, MN 55415

E. SCOPE OF SERVICE/WORK

The Contractor will provide professional services in a manner satisfactory to the City and consistent with any standards required under the terms and conditions of this Master Contract or any special conditions required by the City and made available to the Contractor under this Master Contract.

The Contractor must immediately disclose to the City's Contract Administrator any conflicts of interest with regard to any Scope of Service or Work for which it has been offered and/or has accepted an engagement throughout the term of this Master Contract. Based on the conflict of interest, the Contract Administrator may cancel the Scope of Service or Work without penalty. The Contractor will be paid for services and work performed under the terms and conditions prior to (date of cancellation or termination).

The Contractor understands that the Master Contract is not a guarantee of any Scope of Service or Work. The City has determined that it may have need for the services under this Master Contract, but does not commit to spending any money with the Contractor. City departments and offices will select a Contractor for a specific Scope of Service or Work based on many factors, some of which include qualifications for the services or work required, proven performance, rates, availability and other relevant factors required for each Scope of Service or Work. The award of a service or work will be documented in the fully executed Scope of Service or Work. The Scope of Service or Work identifies cost, resources, category of work, terms of services, competencies required, and deliverables.

If the Contractor offerings are to be provided by different firms or other organizations, the Master Contract will be solely with the Contractor, who will be required to assume responsibility for the total project.

F. OVERPAYMENTS

The City will not pay a Contractor or its subcontractors, agents or employees (a "Resource") through multiple scopes for the same hour if the resource is working on more than one project. In other words, a Resource can only be paid through one Scope of Service or Work at any point in time. The Contractor is responsible for ensuring accurate billing. If any errors are found, the Contractor must immediately provide a refund to the City. Time records are provided to enable the Contractor to complete billing records for each Resource and to aggregate all time and billing records on a single document and distribute it to the organizations benefited.

G. TERMS AND CONDITIONS

This Master Contract is subject to and incorporates all the terms and conditions set forth in Addendum A General Conditions attached hereto.

H. STATE AUDIT

Contractor's books, records, documents, and accounting procedures and practices relevant to this Master Contract are subject to examination by the State Auditor, City of Minneapolis internal auditor or City designee.

I. INTELLECTUAL PROPERTY

The City owns all rights, title and interest in all of the intellectual property rights under this Master Contract except for intellectual property rights that are licensed by the Contractor to the City. "Intellectual property rights" include copyrights, patents, trade secrets, trademarks, and service marks in any work created, in progress, produced or completed and paid under the terms of this Master Contract. "Work" covered includes and is defined as inventions, improvements, discoveries, databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, or other media.

All Work under this Master Contract will be the exclusive property of the City and will be surrendered to the City immediately upon completion, expiration, or cancellation of this Master Contract. The Contractor represents and warrants that the Work does not and will not infringe upon any intellectual property rights of other persons or entities.

J. RESOURCE TRAINING REQUIREMENTS

Contractor agrees to provide an average of 16 training hours per quarter for each quarter "Resources" are retained by the City. Resources include any personnel hired by the Contractor or subcontracted with by the Contractor and assigned to the City. Contractor also agrees to provide additional training for Resources as may be required for new technology employed by the City as a part of the Scope of Service or Work. This training will occur at no charge to the City of Minneapolis.

Resources unable to complete a part of the Scope of Service or Work will be assisted by another of the Contractor's personnel or resources, at no charge to the City, to enable completion of required work.

K. RESOURCE RETENTION

The City reserves the right to employ the Resource of any Contractor after the Resource has been retained one full-time equivalent year (2000 hours) by the City. The Contractor will not restrain the Resource by applying any fee or legal requirement onto the Resource or the City. Neither Resource nor the City will be required to pay any finders fees, employment fees or any other monetary or legal imposition.

The City offers open employment and must hire the most qualified candidate. A Resource may apply for and be hired by the City at any time. The Resource will need to follow whatever mandates the Contractor applies until reaching the 2000 hours of work with the City. If that candidate is the Contractor's Resource, the candidate will bear any cost associated with accepting the offer until the 2000-hour requirement is met.

L. WORK REQUIREMENTS

The Contractor's Resource will document procedures, processes and work product. Such documentation is an integral part of the Scope of Service or Work. Whether or not specified in the Scope of Service or Work, this documentation is required. Failure to provide such documentation during the time frame of the Scope of Service or Work will result in producing such documentation in a time frame determined by the City Project Manager in concurrence with the Contract Administrator or her or his supervisor. No additional charge is allowed. Final payment may be withheld until documentation is provided.

M. TIME REQUIREMENTS

The Contractor must comply with all time requirements described in the Scope of Service or Work. Each Resource working on a City project must complete a time record. Time records are semi-monthly, from the 1st through the 15th of the month and the 16th through the end of the month. The Resource enters the hours, project number, Master Contract and Scope of Service or Work number, signs it, secures the City Project Manager's signature and faxes it to the office of the Contractor. Upon award of work, the time record form will be provided. The Contractor shall attach the copy of the fully completed and signed time record to the invoice.

Status report identifying progress on the deliverables and other assignments must be prepared monthly at minimum. The Resource must provide the report to the Contractor. The Contractor must attach the report to the latter half-month invoice.

N. CHANGES TO CONTRACTOR INFORMATION

All Master Contract holders must notify the Contract Administrator for the Business Information Services Department of the City of Minneapolis of any material changes to information, including their qualifications, services provided, and decreases in rates charged. If necessary, a BIS Master Contract amendment will be issued. Changes that result in disqualifying the Contractor based on the requirements of this RFP may result in cancellation of the Master Contract. Send such changes in writing to the Contract Administrator, City of Minneapolis BIS, 310 4th Avenue South, Suite 400, Minneapolis MN 55415.

O. COMMISSIONS

The Contractor will not retain commissions for any work it performs through this Master Contract or any Scope of Service or Work in which it is engaged. All such commissions as are received must be disclosed and immediately paid to the City regardless of the Master Contract or Scope of Service or Work term.

P. PUBLICITY

Any publicity regarding the subject matter of this contract must have prior written approval of the City Chief Information Officer.

Q. ENDORSEMENT

The Contractor must have prior written approval from the City Chief Information Officer prior to claiming the City endorses its products or services.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date first written above.

CONTRACTOR:
FED ID#

BY: _____

Printed name__

Signature Authorization (of above contractor):

STATE OF _____ }

COUNTY OF _____ }

On this ____ day of _____, _____, before me appeared _____, and _____, to me personally known, who being duly sworn, did say that they are respectively the _____ and _____ of _____, the corporation described herein, and who executed the foregoing instrument; that said instrument was executed in behalf of said corporation by authority of its Board of Directors; and said _____ and _____ acknowledge said instrument to be the free act and deed of said corporation.

Notary Public

CITY OF MINNEAPOLIS

APPROVED BY _____, Chief Information Officer

COUNTERSIGNED BY _____, Finance Officer Designee

APPROVED AS TO FORM _____, Assistant City Attorney

ADDENDUM A - GENERAL CONDITIONS

1 City's Rights

The City reserves the right to reject any or all proposals or parts of proposals, to accept part or all of proposals on the basis of considerations other than lowest cost, and to create a project of lesser or greater expense and reimbursement than described in the Request for Proposal, or the respondent's reply based on the component prices submitted.

2 Interest of Members of City

The Contractor agrees that no member of the governing body, officer, employee or agent of the City shall have any interest, financial or otherwise, direct or indirect, in the Contract.

3 Equal Opportunity Statement

Contractor agrees to comply with the provisions of all applicable federal, state and City of Minneapolis statutes, ordinances and regulations pertaining to civil rights and nondiscrimination including, without limitation, Minnesota Statutes, Section 181.59 and Chapter 363A, and Minneapolis Code of Ordinances, Chapter 139, incorporated herein by reference.

4 Non-Discrimination

The Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, sex, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such prohibition against discrimination 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.

If required by the City, the Contractor shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City, setting forth this nondiscrimination clause. In addition, the Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status or status with regard to public assistance or status as disabled veteran or veteran of the Vietnam eras, 1991 Gulf and current Afghanistan and Iraq wars, and comply in all other aspects with the requirements of the Minneapolis Code of Ordinances, Chapter 139.

5 Disability Compliance Requirements

All Contractors hired by the City of Minneapolis are required to abide by the regulations of the U.S. Americans with Disabilities Act of 1990 (ADA) which prohibits discrimination against individuals with disabilities. The Contractor will not discriminate against any employee or applicant for employment because of their disability and will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, discharge, compensation and fringe benefits, classification, referral and training. The ADA also requires Contractors associated with the City to provide qualified applicants and employees with disabilities with reasonable accommodation that does not impose undue hardship. Contractors also agree to post in a conspicuous place, accessible to employees and applicants, notices of their policy on non-discrimination. The above requirements also apply to the Minnesota Human Rights Act, Minnesota Statutes Chapter 363A.

In the event of the Contractor's noncompliance with the non-discrimination clauses of this Contract, this Contract may be canceled, terminated, or suspended, in whole or part, and the Contractor may be declared ineligible by the Minneapolis City Council from any further

participation in City Contracts in addition to other remedies as provided by law.

6 Insurance

Insurance secured by the Contractor shall be issued by insurance companies acceptable to the City and admitted in Minnesota. The insurance specified may be in a policy or policies of insurance, primary or excess. Such insurance shall be in force on the date of execution of the Contract and shall remain continuously in force for the duration of the Contract. The Contractor and its sub-contractors shall secure and maintain the following insurance:

- a) Workers Compensation insurance that meets the statutory obligations with Coverage B-Employers Liability limits of at least \$100,000 each accident, \$500,000 disease - policy limit and \$100,000 disease each employee.
- b) Commercial General Liability insurance with limits of at least \$2,000,000 general aggregate, \$2,000,000 products - completed operations \$2,000,000 personal and advertising injury, 100,000 each occurrence fire damage and \$10,000 medical expense any one person. The policy shall be on an "occurrence" basis, shall include contractual liability coverage and the City shall be named an additional insured.
- c) Commercial Automobile Liability insurance covering all owned, non-owned and hired automobiles with limits of at least \$500,000 per accident.
- d) Professional Liability Insurance or Errors & Omissions insurance providing coverage for 1) the claims that arise from the errors or omissions of the Contractor or its sub-contractors and 2) the negligence or failure to render a professional service by the Contractor or its sub-contractors. The insurance policy should provide coverage in the amount of \$2,000,000 each occurrence and \$2,000,000 annual aggregate. The insurance policy must provide the protection stated for two years after completion of the work.
- e) Technology Liability Insurance for the duration of this agreement providing coverage for, but not limited to, Technology and Internet Errors & Omissions, Security and Privacy Liability, and Electronic Media Liability. If written on a Claims-Made basis, policy must provide an extended reporting period and have a retroactive date that on or before the date of this contract or the date Contractor commences work, whichever is earlier.

Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the Contractor. Any policy deductibles or retention shall be the responsibility of the Contractor. The Contractor shall control any special or unusual hazards and be responsible for any damages that result from those hazards. The City does not represent that the insurance requirements are sufficient to protect the Contractor's interest or provide adequate coverage. Evidence of coverage is to be provided on a City-approved Insurance Certificate. A thirty (30) day written notice is required if the policy is canceled, not renewed or materially changed. The Contractor shall require any of its subcontractors, if sub-contracting is allowable under this Contract, to comply with these provisions.

7 Hold Harmless

The Contractor agrees to defend, indemnify and hold harmless the City, its officers and employees, from any liabilities, claims, damages, costs, judgments, and expenses, including reasonable attorney's fees, resulting directly or indirectly from any negligent act or omission of the Contractor, its employees, its agents, or employees of subcontractors, in the performance of the work or services provided by or through this Contract or by reason of the failure of the Contractor to fully perform, in any respect, any of its obligations under this Contract. If a Contractor is a self-insured agency of the State of Minnesota, the terms and conditions of Minnesota Statutes, section 3.732 et seq. shall apply with respect to liability bonding, insurance and liability limits. The provisions of Minnesota Statutes, Chapter 466 shall apply to other political subdivisions of the State of Minnesota.

8 Subcontracting

The Contractor shall provide written notice to the City and obtain the City's authorization to sub-contract any work or services to be provided to the City pursuant to this Agreement. As

required by Minnesota Statutes, Section 471.425, the Contractor shall pay all certified small subcontractors for subcontractor's undisputed, completed work, within ten (10) days after the Contractor has received payment from the City.

9 Assignment or Transfer of Interest

The Contractor shall not assign any interest in the Contract, and shall not transfer any interest in the same either by assignment or novation without the prior written approval of the City, provided, however, that claims for money due or to income due to the Contractor may be assigned to a bank, trust company or other financial institution, or to a Trustee in Bankruptcy without such approval. Notice to any such assignment or transfer shall be furnished to the City. The Contractor shall not subcontract any services under this Contract without prior written approval of the City Department Contract Manager designated herein.

10 General Compliance

The Contractor agrees to comply with all applicable Federal, State and local laws and regulations governing funds provided under the Contract.

11 Performance Monitoring

The City will monitor the performance of the Contractor against goals and performance standards required herein. Substandard performance as determined by the City will constitute non-compliance with this Contract. If action to correct such substandard performance is not taken by the Contractor within a reasonable period of time after being notified by the City, Contract termination procedures will be initiated. All work submitted by Contractor shall be subject to the approval and acceptance by the City Department Contract Manager designated herein. The City Department Contract Manager designated herein shall review each portion of the work when certified as complete and submitted by the Contractor and shall inform the Contractor of any apparent deficiencies, defects, or incomplete work, at any stage of the project.

12 Independent Contractor

Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Contractor shall at all times remain an independent contractor with respect to the work and/or services to be performed under this Contract. Any and all employees of Contractor or other persons engaged in the performance of any work or services required by Contractor under this Contract shall be considered employees or sub-contractors of the Contractor only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services to be rendered or provided herein, shall be the sole obligation and responsibility of Contractor.

13 Accounting Standards

The Contractor agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices (GAAP) to properly account for expenses incurred under this Contract.

14 Retention of Records

The Contractor shall retain all records pertinent to expenditures incurred under this Contract for a period of six years after the resolution of all audit findings, with the exception that such records shall be kept for a period of ten years after both the terms of a monitoring agreement have been fulfilled and all audit findings have been resolved for abatement programs. Records for non-expendable property acquired with funds under this Contract shall be retained for six years after final disposition of such property.

15 Data Practices

The Contractor agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. The Contractor must immediately report to the City any requests from third parties for information relating to this Contract. The City agrees to promptly respond to inquiries from the Contractor concerning data requests. The Contractor agrees to hold the City, its officers, and employees harmless from any claims resulting from the Contractor's unlawful disclosure or use of data protected under state and federal laws.

All Proposals shall be treated as non-public information until the Proposals are opened for review by the City. At that time, the names of the responders become public data. All other data is private or non-public until the City has completed negotiating the Contract with the selected Contractor. At that time, the Proposals and their contents become public data under the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 and as such are open for public review.

16 Inspection of Records

All Contractor records with respect to any matters covered by this Contract shall be made available to the City or its designees at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

17 Living Wage Ordinance

The Contractor may be required to comply with the "Minneapolis Living Wage and Responsible Public Spending Ordinance" Chapter 38 of the City's Code of Ordinances (the "Ordinance") (<http://www.ci.minneapolis.mn.us/procurement/Ch38LivingWage.pdf>). Unless otherwise exempt from the ordinance as provided in Section 38.40 (c), any City contract for services valued at \$100,000 or more or any City financial assistance or subsidy valued at \$100,000 or more will be subject to the Ordinance's requirement that the Contractor and its sub-contractors pay their employees a "living wage" as defined and provided for in the Ordinance.

18 Applicable Law

The laws of the State of Minnesota shall govern all interpretations of this Contract, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Hennepin, State of Minnesota, regardless of the place of business, residence or incorporation of the Contractor.

19 Conflict and Priority

In the event that a conflict is found between provisions in this Contract, the Contractor's Proposal or the City's Request for Proposals, the provisions in the following rank order shall take precedence: 1) Contract; 2) Proposal; and last 3) Request for Proposals (only for Contracts awarded using RFP).

20 Travel

If travel by the Contractor is allowable and approved for this Contract, then Contractor travel expenses must be reimbursed in accordance with the *Contractor Travel Reimbursement Conditions*, available from the City.

21 Billboard Advertising

City Code of Ordinance 109.470, prohibits the use of City and City-derived funds to pay for billboard advertising as a part of a City project or undertaking.

22 Conflict of Interest/Code of Ethics

By signing this Contract, the Contractor agrees that it will not represent any other party or other client which may create a conflict of interest in its representation with the City. If the Contractor is unclear if a conflict of interest exists, the Contractor will immediately contact the

City representative identified as the Contract manager in this contract and ask for an interpretation.

In so far as it relates to its relationship with the City created by this Contract, the Contractor agrees to comply with the City's Code of Ethics, as codified at Minneapolis City Code of Ordinances, Title 2, Chapter 15. Contractor certifies that to the best of its knowledge all City employees and officers participating in this Contract have also complied with Title 2, Chapter 15 of that Ordinance as it related to their relationships between the City and the Contractor created by this Contract. Compliance with the Code of Ethics by the Contractor will be in its potential role as an "interested person", "lobbyist" and not as a "local official" or "local employee" (except to the extent that a Contractor representative or member of its board of directors is already a City official or employee). It is agreed by the Parties that any violation of the Code of Ethics constitutes grounds for the City to void this Contract. All questions relative to this section shall be referred to the City and shall be promptly answered.

23 Termination

The City may cancel this Contract for any reason without cause upon thirty (30) days written notice. Both the City and the contractor may terminate this Contract if either party fails to fulfill its obligations under the Contract in a proper and timely manner, or otherwise violates the terms of this Contract. The non-defaulting party shall have the right to terminate this Contract, if the default has not been cured after ten (10) days written notice has been provided. If termination shall be without cause, the City shall pay Contractor all compensation earned to the date of termination. If the termination shall be for breach of this Contract by Contractor, the City shall pay Contractor all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the Contract is canceled or terminated, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Contractor under this Contract shall, at the option of the City, become the property of the City, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of this Contract by the Contractor. The City may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Contractor, from asserting any other right or remedy allowed by law, equity, or by statute.

24 Ownership of Materials

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from this Contract shall become the property of the City upon final approval of the final report or upon request by the City at any time before then. The City may use, extend, or enlarge any document produced under this Contract without the consent, permission of, or further compensation to the Contractor.

25 Intellectual Property

Unless the contractor is subject to one or more of the intellectual property provisions in subsection (a), (b) or (c) below, the City owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in any "Work" created, in progress, produced or completed and paid by this Contract. Work covered includes inventions, improvements, discoveries, databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, or other media.

All Work under this Contract will be the exclusive property of the City and will be surrendered to the City immediately upon completion, expiration, or cancellation of this Contract. The

Contractor represents and warrants that the Work does not and will not infringe upon any intellectual property rights of other persons or entities.

- (a) For Artwork: The City shall possess and own the Public Artwork to be provided by the Contractor. The Contractor retains all other rights provided through the Copyright Act of 1976, 17 U.S.C. Section 101 et. seq. to the Public Artwork.

Since the artistic designs leading up to and including the final design and dimension of the Public Artwork are unique, the Contractor shall not make any additional, exact duplicate reproductions of the final design and dimension, nor shall the Contractor grant to a third party, the right to replicate the artistic designs and dimensions of the Public Artwork, without the written permission of the City.

The Contractor grants to the City and its successors or assigns, an irrevocable license to make two-dimensional reproductions of the Public Artwork and the final designs to be used in brochures, media, publicity and catalogs or other similar, non-profit publications.

The Public Artwork and designs developed under this contract shall be the exclusive property of the City and will be surrendered to the City upon the completion of the Public Artwork or upon the cancellation, termination or expiration of this Contract.

If the Public Artwork prepared under this Contract is work or service provided by the Contractor using a proprietary system for which the Contractor has proprietary rights, then the City will not own or claim the Public Artwork as the City's exclusive property. The Contractor represents and warrants that said work or service does not and will not infringe upon the proprietary or any intellectual property rights of any other persons or entities.

- (b) For Licensed Software: Contractor retains ownership, intellectual property rights and title to its software. Contractor also retains proprietary rights to documentation, manuals and related documents associated with its software. Contractor also retains ownership, title and interest in all intellectual property rights, including copyrights, patents, trade secrets, trademarks and service marks in any "work" created, produced or completed as a result of this Agreement. "Work" shall be limited to inventions, improvements, discoveries, computer programs or specifications developed as a result of the City's receipt of the license key or the access code to, and installation of the software.

All rights of the City to use the software are indicated with particularity in a "License and Maintenance Agreement" between the Contractor and the City.

The City understands and agrees that upon the expiration or termination of this Contract, the Contractor will cancel the license key or access code and the software will be disabled or removed.

Contractor recognizes and agrees that reports, data, diagrams and other results and outcomes from the City's use of the software and the information and data entered into the software by the City is retained by the City as its property.

- (c) For specifically commissioned development of intellectual technology: Subject to subparagraph (i), "Pre-existing Technology" below, the City will own all right, title and interest in and to any "work" that is specifically commissioned for development under this Contract. Subject to the ownership rights in the preceding sentence and in the pre-existing technology paragraph below, the Contractor will retain property rights to all "know-how", data processing techniques, software documentation, diagrams,

specifications, schematics or blueprints developed by the Contractor. The Contractor grants the City a perpetual, non-exclusive, non-transferable license to use any of the foregoing for its internal purposes.

(i) Pre-existing Technology: Each party acknowledges and agrees that each party is the sole and exclusive owner of all right, title, and interest in and to its services, products, software, source and object code, specifications, designs, techniques, concepts, improvements, discoveries and inventions including all intellectual property rights thereto, including without limitations any modifications, improvements, or derivative works thereof, created prior to, or independently, during the terms of this Contract. This Contract does not affect the ownership of each party's pre-existing, intellectual property. Each party further acknowledges that it acquires no rights under this Contract to the other party's pre-existing, intellectual property, other than any limited right explicitly granted in this Contract.

(ii) Data-Ownership: The City is the sole owner of all information, data, algorithms, policies or programs used by the Contractor in designing, developing and producing the "Work" that is the subject of this Contract.

(iii) Further Assurances: Each party agrees to cooperate with the other party and take all reasonable actions required to vest and secure in such party all ownership rights, including all intellectual property rights as may be indicated in this Contract.

26 Equal Benefits Ordinance

Minneapolis Code of Ordinances, Section 18.200, relating to equal benefits for domestic partners, applies to each contractor and subcontractor with 21 or more employees that enters into a "contract", as defined by the ordinance that exceeds \$100,000. The categories to which the ordinance applies are personal services; the sale or purchase of supplies, materials, equipment or the rental thereof; and the construction, alteration, repair or maintenance of personal property. The categories to which the ordinance does not apply include real property and development contracts.

Please be aware that if a "contract", as defined by the ordinance, initially does not exceed \$100,000, but is later modified so the Contract does exceed \$100,000, the ordinance will then apply to the Contract. A complete text of the ordinance is available at:

http://www.ci.minneapolis.mn.us/procurement/docs/equal_benefits_ordinance.pdf.

It is the Contractor's and subcontractor's responsibility to review and understand the requirements and applicability of this ordinance.

27 Cardholder Data and Security Standards

Should the Contractor collect revenue on behalf of the City through the acceptance of credit cards offered by cardholders to pay for services offered under the terms of this Contract, then Contractor represents and acknowledges that the Contractor will comply with Payment Card Industry (PCI) regulatory standards including the Data Security Standards (DSS). Contractor represents that it will protect cardholder data. Contractor will be annually certified as a PCI compliant service provider and agrees to provide evidence of said certification to the City upon request. Contractor agrees at reasonable times to provide to the City or to its assigns, the audit rights contained in item 15 hereof for all physical locations, systems or networks that process credit cards on behalf of the City. Contractor also agrees to provide written notice to the City of any breach of a system owned, operated or maintained by the Contractor that contains cardholder data or information.

28 Small and Underutilized business Program (SUBP) Requirements

The Contractor must comply with the Small and Underutilized Business Enterprise Program (SUBP), as outlined in Minneapolis City Ordinance Chapter 423 (the "(SUBP) Ordinance").

The SUBP Ordinance applies to any construction/development project, or part thereof, in excess of one hundred thousand dollars (\$100,000), and any contract for the provision of goods and services in excess of fifty thousand dollars (\$50,000).

Any inquiries relating to participation goals for small and underutilized business should be directed to the City of Minneapolis Civil Rights Department, SUBP Unit, 239 City Hall, 350 South 5th Street, Minneapolis, Minnesota 55415, Attention: Manager, SUBP Unit, (612-673-2272).

ADDENDUM B – CONTRACTOR TRAVEL REIMBURSEMENT CONDITIONS

All travel-related expenses must be allowable through a current contract, must receive prior approval from the City Department Contract Manager designated for the contract, and must be paid on a reimbursement basis.

1. Air Travel

- Coach class only.
- Original receipt and passenger copy of used airline coupon must be provided.
- Only airfare to primary home location will be reimbursed. The City may set a limit on these reimbursements. (i.e. monthly or dollar threshold).
- Travel for non-City business is not reimbursable. Air travel with stopovers exceeding 24 hours will not be reimbursed.

2. Transportation

- Taxi, shuttle, light rail transit, local bus and rental car are allowable. Rental car reimbursement will only be made for economy, compact or budget size. Taxi fare, light rail transit, local bus and shuttle will only be reimbursed between airport, work site and hotel. At City's option, reimbursement will occur using mileage with IRS "deductible" rates with an atlas to determine distance rather than rental car charge. Limousine service and valet parking are not reimbursable. Local transportation and parking in the contractor's primary home location are not reimbursable.
- Reimbursements for travel via rail, bus, rental car or personal car must not exceed the cost charged for coach airfare to the same destination.
- Personal car use is reimbursed at the City's current IRS "deductible" mileage rate. For personal car expense reimbursement, the contractor must provide odometer reading from before and after travel.
- If more than one consultant is traveling to City, then at City's option, the number of personal or rental vehicles eligible for reimbursement may be limited.
- Receipts and explanatory documentation must be provided for transportation reimbursements other than mileage for personal cars.
- Parking charges are reimbursable for daily parking at hotel and work site only.

3. Hotel

- Hotel reimbursement is limited to the single room rate. If two consultants are sharing a room, reimbursement is allowable for only one consultant at the double room rate.
- Eligible lodging expenses include the room cost only.
- Receipts must be provided for hotel reimbursements.
- Hotel must be close to work site, unless contractor pays for transportation increase.
- City Department Contract Manager will determine maximum hotel reimbursement per night. The maximum reimbursement should be limited to the best discount rate available and allowable, including government rate or University of MN contract rate <http://uwidecontracts.umn.edu/>.

4. Meals & Miscellaneous

- Includes phone calls, fax costs, Internet costs, all gratuities, and meals.
- Maximum total daily reimbursement is that allowable by federal GSA guidelines for Hennepin County, MN (\$51.00 for 2004, including tax) for workdays on site. No reimbursement will be provided for non-workdays
- If requested by the City, actual receipts must be submitted.

END OF MASTER CONTRACT