

City of Minneapolis Art in Public Places
Department of Public Works
Hiawatha Maintenance Facility
Public Art Project

Call for Artists

The City of Minneapolis Art in Public Places Program and Department of Public Works are pleased to invite artists to apply to design public art works to be integrated into the Hiawatha Maintenance Facility in the East Phillips neighborhood at East 26th Street and Hiawatha Avenue South. Artists or artist teams may apply.



Applications must be received by Friday, July 15, 4:30 p.m.

I. The Hiawatha Maintenance Facility and East Phillips Neighborhood

The City of Minneapolis Department of Public Works is coordinating the development of a new maintenance facility at East 26th Street and Hiawatha Avenue South. The Project will provide for the office, shop, storage and operational needs of Public Works - Field Services Division including the following construction and maintenance operations: Street Maintenance, Paving Construction, Sewer Maintenance, Sewer Construction, and Bridge Maintenance. In addition, the Project will consider opportunities for providing additional operational space(s) for a new Asphalt Plant, Water Distribution and Maintenance, Stores, Engineering Lab, Equipment Dispatch, Sewer Design, and a satellite for Hennepin County Public Works. Specifically, the project will provide consolidated, functional working space for approximately 300 employees, including approximately 20,000 square feet of office space, 50,000 square feet of shop and interior storage space, and 250,000 square feet of yard space. A majority of the existing buildings will be demolished, but it is anticipated that one or more of the current buildings may be kept for the foreseeable future. The Design and construction of the Hiawatha Maintenance Facility will also incorporate sustainable (green) initiatives and will be built at a minimum to a LEED® Gold level of quality.

The Hiawatha Maintenance Facility is located in the East Phillips Neighborhood, and an important goal of project is to “provide a facility that has a positive impact on the surrounding neighborhood, including improvements in aesthetics and control of noise and smells.” (For more information on the neighborhood, see the attached [Phillips Community](#) Neighborhood Profile.) The [Midtown Greenway Pedestrian Bridge](#) and major bike trail connections to the Midtown Greenway are currently being constructed adjacent to the Maintenance Facility site.

II. The Public Art Project

The City of Minneapolis is seeking artists to work with project architects and staff to design public artworks to be integrated elements of the Hiawatha Maintenance Facility and to serve on the design team for the project., which also includes the City’s Project Manager, the representatives of the lead architectural/engineering firm and their subconsultants, the Commissioning Agent, department contacts from Field Services, and various other representatives of the Department of Public Works and the City of Minneapolis.

A. Artist Eligibility

The project is open to artists/artist teams. **Artists applying must be readily available during the timeline.** (See section III.A. below.) The City of Minneapolis encourages emerging artists and persons from various cultures and ethnic backgrounds to apply. Artists who are ineligible to apply include current City staff, and Minneapolis Arts Commissioners.

B. Artist Compensation

Selected artists/artist teams will receive a design fee of \$100/hour for a maximum total design fee of \$15,000 for design services. This fee should cover any and all of the costs of supplies, materials, and expenses necessary for related design development and project oversight. A

contract between the artist/artist team and the City of Minneapolis will define stages of completion and a payment schedule. This project will also have a fabrication budget of \$120,000 which should include installation, site restoration and development of a maintenance plan. Execution of the project (materials, fabrication, installation, liability insurance, and structural engineering) may be overseen by the artist(s) and/or by other contractors. This will be negotiated with staff during the design and contract processes.

C. Project Tasks

The project encourages artists to collaborate with the project architects and staff. The artist's/artist team's responsibilities include:

1. Reviewing related public art and neighborhood plans. (This includes the [Midtown Greenway Public Art Plan](#) and design work for the Hiawatha/Lake District developed by the [Community Planning and Economic Development Artist in Residence](#).)
2. Researching possible themes.
3. Involving the community in design development and, if possible, in fabrication, and participating in approximately two community meetings.
4. Developing artistic concepts and designs.
5. Designing artworks that comply with all codes and functional requirements, are constructed of durable materials, and require little repair or maintenance.
6. Developing final drawings, models, presentation materials, and other visual and written items.
7. Presenting concepts and designs to committees, boards, community groups, and others.
8. Participating in an ongoing design review and modification process with input from the staff, architects, and appropriate City committees.
9. Providing ongoing updates to staff.
10. Developing cost estimates of artwork.
11. Developing a maintenance plan for the artwork.
12. Fabricating artwork or overseeing fabrication.
13. Installing artwork or overseeing installation.
14. Collaborating with the architects on all of the above.
15. Carrying adequate insurance coverage for the project as per the City's Standard Agreement.
16. Providing the City with copyright privileges to make two-dimensional reproductions for non-profit use, such as brochures, publicity and web-site publications.
17. Providing the City with documentation of the project, including site plans and slides of the fabrication process.
18. If the artwork is integrated into the building's architecture and cannot be removed without being destroyed or modified the artist/artist team will be required to waive their rights according to appropriate sections of the Visual Artists Rights Act of 1990.

III. Application Process

A. Project Timeline

Monday, June 18	RFP distributed and Website on Line
Friday, June 29, 10:30 a.m.	Informational Workshop for Artists, 1935 26 th Street East
Friday, July 15, 4:30 p.m.	Artist submissions must be received
Week of July 25	Panel selects finalists*
Week of July 25	Finalist interviews, final decision
August	Contract processed and meetings begin
Coordinated around other design work and work at the site.	Design development and fabrication (new facility scheduled to open in summer 2009)

*Panel meetings are open to the public. For information about dates and times, contact Mary Altman (see item 3 below.)

B. Proposal Due Date and Location

Date and Time: Received by Friday, July 15, 4:30 p.m.

Location: Proposals may be sent to City of Minneapolis, Purchasing Department, Room 552, Towle Building, 330 2nd Avenue South, Minneapolis, MN 55401. Or you may send your application electronically to mary.altman@ci.minneapolis.mn.us.

Artists should submit **1 copy** of a packet containing all of the written materials defined in section D below. Proposal packets should be 8 ½" x 11", in black and white and on paper suitable for photocopying. **No stapling, special binding methods or proposals in folders or portfolios are allowed.** Photos, brochures, slides, videos, or web sites should not be submitted and will not be reviewed by the selection panel. No submission materials will be returned.

Applications must be emailed, mailed or delivered. Applications that are faxed, incomplete, or late will not be accepted. Artists will be notified of panel recommendations by mail.

This **Call for Artists** is available in alternative format upon request. Applicants needing special assistance may contact Mary Altman (see item 3 below.).

C. Contact for More Information

All questions regarding this proposal must be submitted in writing to:
 Mary Altman, Public Arts Administrator
 City of Minneapolis
 or 612-673-2728 (fax)
 or mary.altman@ci.minneapolis.mn.us.

D. Proposal Format and Submission Materials (This has changed, please read carefully.)

Images: Submit ten images on a compact disc in jpeg format of recent work, **as relevant to this project.**

1. **General Guidelines:** Each image must be a separate file. It must be named with the artist(s)' last name and a number which corresponds with the Image List. (See the attached form.) No collaged images--one image of each work per file only. Explanatory text should be included on the image list, not within the image itself. Photos, brochures, slides, videos, or web sites should not be submitted and will not be reviewed by the selection panel. No submission materials will be returned.
2. **Image Size:** Your image should be 1920 pixels horizontal /1920 pixels vertical, no more than 1.8 MB in file size, and a baseline JPG. Do not submit progressive JPGs. Please size your image to be 1920 pixels on both edges. If your image is not square, please mask your image with black to bring your image to 1920x1920 pixels. (Note: these guidelines are comparable to **CaFÉ™** standards--www.callforentry.org.)

Written Materials: Submit 1 copy of the following written materials in the following format and the following order:

1. **Cover Sheet:** A completed copy of the attached cover sheet.
2. **Narrative Description:** A narrative description of your approach to the Scope of Services addressing the tasks defined in section II.C above. Indicate the types of deliverables that you would provide, including sketches, technical drawings, models, power points, and other visual and written products. **Not to exceed two pages.**
3. **Experience and Capacity:** The current resume(s) of all of the artists involved, including information on background and ability to conduct the tasks listed. **Not to exceed two pages per artist.**
4. **Image List:** A completed *one page* Image List using the attached form. **Not to exceed one page.**
5. **References:** The names, addresses, and daytime phone numbers of three professional references from past projects.
6. **Send To:** City of Minneapolis, Purchasing Department, Room 552, Towle Building, 330 2nd Avenue South, Minneapolis, MN 55401.

F. Artist Selection Criteria

The criteria listed below will be used for evaluating artist and team qualifications, proposed processes and project ideas.

1. **Stimulate excellence in urban design and public arts:**
 - Is the artist's submission, previous work and/or proposed idea engaging and high quality in concept and construction?
 - Is the quality of the artist's previous work comparable to other artwork commissioned by the City?
 - Is the artist not over represented in the City's collection?
 - Does the artist have a significant or engaging body of work?
 - Does the artist have experience collaborating with architects and other professionals?
 - Does the artist have experience with architectural and engineering drawings and methods?

- Does the artist have experience in comparable projects and artistic disciplines?

2. Enhance community identity and place:

- Is the artist familiar with the community and setting and its characteristics, including history, identity, geography and cultures?
- Has the artist's previous work been appropriate to those communities and settings and the above characteristics?
- Does the artist have experience integrating artwork into infrastructure and building function?

3. Contribute to community vitality:

- Have the artist's previous projects attracted visitors and residents?
- Does the artist's previous work or proposed process build capacity between the private and public sectors, artists, arts organizations and community members?
- Does the artist's previous work or proposed process encourage civic dialogue about City issues?
- Do the artist's previous projects incorporate or address aspects of public safety?

4. Involve a broad range of people/communities:

- Does the artist have experience working with communities and diverse groups?
- Does the artist have a demonstrated ability to address ADA regulations as they apply to public art?
- Does the artist's previous or proposed process celebrate one or more of the City's cultural communities?
- Does the artist have experience in projects that bring people together or create gathering places?

5. Value artists and artistic process:

- Does the artist have a unique or appropriate cultural, geographic or artistic perspective?
- Does the proposed project or process appropriately support the integrity of the artwork and the moral rights of the artist?
- Does the proposed project or design process include the artist and the artistic process as a central element?

6. Use resources wisely:

- Is the artist's previous work or proposed project sustainable, secure and technically feasible?
- Has the artist's previous work been within the timeline and budget and is the artist able to work within the City's timeline and budget?

G. Selection Panel

The role of the selection panel is to interpret and review artist's previous experience and proposed ideas based on the selection criteria. The panel will include the following representatives:

1. Artist
2. Arts administrator
3. Architect or landscape architect
4. Arts Commissioner
5. A project site representative
6. Public Works staff member
7. An appropriate community representative
8. Two at-large members

General Conditions for Request For Proposals (RFP)

(Revised - 01/2007)

The General Conditions are terms and conditions that the City expects all of its Contractors to meet. By proposing, the proposer agrees to be bound by these requirements unless otherwise noted in the Proposal. The proposer may suggest alternative language to any section. Some negotiation is possible to accommodate the proposer's suggestions.

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 \$1,000,000 general aggregate, \$1,000,000 products - completed operations \$1,000,000 personal and advertising injury, 50,000 each occurrence fire damage and \$5,000 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 \$1,000,000 each occurrence and \$1,000,000 annual aggregate. The insurance policy must provide the protection stated for two years after completion of the work.

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 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.

9 General Compliance

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

10 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.

11 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.

12 Accounting Standards

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

13 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.

14 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.

15 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.

16 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"). 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.

17 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.

18 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).

19 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.

20 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.

21 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 department Contract manager and ask for an interpretation.

Contractor agrees to comply with the City's Code of Ethics, City Code of Ordinances, Chapter 15. Contractor certifies that to the best of its knowledge all City employees and officers participating in this Contract have also complied with that Ordinance. 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.

22 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.

23 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.

24 Intellectual Property

Subject to the sub-section entitled (insert the number here if applicable) 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 the "License and Maintenance Agreement" between the Contractor and the City, attached hereto and made a part of this Agreement. Any additional terms or conditions regarding intellectual property rights, ownership rights confidentiality and indemnification shall be in accordance with the License and Maintenance Agreement.

The City understands and agrees that upon the expiration or termination of this Agreement, 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 (a), "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 Agreement. 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 Agreement. This Agreement does not affect the ownership of each party's pre-existing, intellectual property. Each party further acknowledges that it acquires no rights under this Agreement to the other party's pre-existing, intellectual property, other than any limited right explicitly granted in this Agreement.

(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 Agreement.

(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 Agreement.

25 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.

26 Small & Underutilized Business Program (SUBP) Requirements

The selected vendor must comply with the Small and Underutilized Business Enterprise Program (SUBP), as detailed in Chapter 423 of the Minneapolis Code of Ordinances. The SUBP Ordinance applies to any construction/development project, 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). Should the respondent find an opportunity to contract with other business concerns to complete portions of the task solicited, we ask that they would entertain contracts with businesses owned by women or minority persons. Such business arrangements and dollar amounts should be identified in the proposal. Documented efforts and results will be considered favorably during the review and selection process. For more information on locating certified businesses you may contact the CERT website at www.govcontracts.org or by contacting Roxanne Crossland at 612/673-2112.