

Bid Specifications, Bid Response Forms, and Sample Contract

BID NO. 020-18
DISASTER DEBRIS REMOVAL AND DISPOSAL 2018
REVISED 6-13-18

CITY OF FAIRHOPE

Karin Wilson, Mayor

Jack Burrell, Council President

Set_____

ITEM I INVITATION TO BID

Sealed bids will be received, opened, and read aloud in public session for furnishing all labor and materials and performing all work required by the City of Fairhope for **DISASTER DEBRIS REMOVAL AND DISPOSAL**, for the **CITY OF FAIRHOPE, AL**, at **10:00 A.M. on Friday, June 29, 2018**, at the City of Fairhope Warehouse located at 555 S. Section St., Fairhope, Alabama. Qualified contractors are invited to bid.

The bidder expressly acknowledges, to and for the benefit of the CITY, that this Agreement may be funded with federal monies and, therefore bidder expressly warrants and agrees that it shall at times comply with all applicable federal, state, local and municipal laws and regulations. For more information about the Federal regulations visit the website <http://gpoaccess.gov/index.html>

Bid No. 020-18 Disaster Debris Removal and Disposal
Project No. PW _____ - 18 (to be established at time of event)

The City of Fairhope is soliciting bids to provide Disaster Debris Removal and Disposal Services following an event within the city limits and some right-of-ways that may be outside the corporate limits of Fairhope, Alabama.

Plans, Specifications, Invitation to Bid, addenda, and other related documents may be obtained from the City of Fairhope Warehouse located at 555 S. Section St., Fairhope, Alabama, Monday through Friday from 7:00 A.M. until 4:00 P.M., or downloaded from the City's website at www.fairhopeal.gov. Questions or comments pertaining to this proposal must be sent to the Purchasing Manager, Jillian Saffle, jillian.saffle@fairhopeal.gov forty-eight (48) hours prior to the bid opening or will be forever waived.

The City of Fairhope is an Equal Opportunity Employer.

All bids must be on blank bid forms provided in the Bid Documents. Bids shall be accompanied by a BID SECURITY equal to \$1,000. BID SECURITY shall be in the form of a BID BOND signed by a bonding company authorized to do business in the State of Alabama or a cashier's check payable to the City of Fairhope.

A Performance Bond in the form and terms approved by the City of Fairhope in an amount not less than the sum of the bid will be required at time of activation, and in addition, a Labor and Materials Bond in the form and terms approved by the City of Fairhope in an amount not less than fifty percent (50%) of the CONTRACT price insuring payment for all labor and materials.

There will be a non-mandatory pre-bid meeting on Wednesday, June 20, 2018, at 10:00 A.M. at the City of Fairhope Warehouse located at 555 S. Section St., Fairhope, AL 36532.

All bids, with their guarantee (when required), must be enclosed in a sealed, opaque envelope, clearly identified on the outside as a **"Sealed Proposal" with Proposer's Name and Number, Proposer's Name and Address, and opening time and date.** Each bid must be in a separate envelope. No responsibility will attach to the City of Fairhope for the premature opening of a bid not properly addressed or identified. Bids made out in pencil will not be accepted. Failure to observe the instructions contained herein will constitute grounds for rejection of your bid.

The **CONTRACTOR** must furnish to the City of Fairhope at the time of the signing of the CONTRACT a certificate of insurance coverage as provided in the CONTRACT documents which will include comprehensive insurance, CONTRACTOR Automobile Liability Insurance, and where applicable, CITY'S Protective Liability insurance, SUB-CONTRACTOR'S public liability and property damage insurance. The company that is awarded the bid must have Workman's Compensation Insurance on all its employees if work is to be performed on City of Fairhope premises. General Liability Insurance, specifying coverage, must be maintained to hold the City of Fairhope harmless in the event of an accident.

No bids will be considered unless the **CONTRACTOR**, whether resident or non-resident of Alabama, is properly qualified to submit a proposal for this type of work in accordance with all applicable laws of the State of Alabama. Where applicable, this shall include evidence of holding a current license from the State Licensing board for General CONTRACTORS, Montgomery, Alabama, as required by Chapter 8 of Title 34, of the Code of Alabama, 1975. In addition, the contracted provider, if non-resident of the State, and if a corporation, shall show evidence of having qualified with the Secretary of State to do business in the State of Alabama <http://sos.alabama.gov/business-entities>; **CONTRACTOR must have a current business license or purchase a business license with the City of Fairhope prior to work performed.** No proposals shall be withdrawn for the period of thirty (30) days subsequent to the opening of proposals without the consent of the City of Fairhope, Baldwin County, Alabama. Once completed, a tabulation of the responsive and responsible bids will be available for public viewing on the City of Fairhope's website, www.fairhopeal.gov.

Jillian Saffle
Purchasing Manager

ITEM II
INVITATION TO BID
Bid No. 020-18 Disaster Debris Removal and Disposal

REQUEST FOR PROPOSAL DATE: June 11, 2018

BID NAME AND BID No.: Bid No. 020-18 Disaster Debris Removal and Disposal

NON-MANDATORY PRE-BID MEETING DATE: June 20, 2018 at 10:00 A.M. (Central)

PLACE OF BID OPENINGS: City of Fairhope Warehouse, 555 S. Section St., Fairhope, AL

QUESTIONS MUST BE SUBMITTED BY: June 27, 2018 at 10:00 A.M. (Central)

BID MUST BE PUBLICLY OPENED: June 29, 2018 at 10:00 A.M. (Central)

All bids, with their guarantee (when required), must be enclosed in a sealed, opaque envelope, clearly identified on the outside as a **"Sealed Proposal" with Proposer's Name and Number, Proposer's Name and Address, and opening time and date.** Each bid must be in a separate envelope. No responsibility will attach to the City of Fairhope for the premature opening of a bid not properly addressed or identified. Bids made out in pencil will not be accepted. Failure to observe the instructions contained herein will constitute grounds for rejection of your bid.

The City reserves the right to accept or reject all bids or any portion thereof, and to waive informalities and to furnish any item of material or work to change the amount of the CONTRACT, whichever is in the best interest of the City of Fairhope.

Sealed bids will be received by the City of Fairhope Warehouse until the above time and date at which time they will be opened as soon thereafter as practicable.

Sealed bids must be mailed to the following addresses:

U.S. Postal Service

City of Fairhope
Attn: Jillian Saffle, Purchasing Manager
P.O. Drawer 429
Fairhope, AL 36533

Courier (UPS, FedEx, etc.); Hand Delivered

City of Fairhope
Attn: Jillian Saffle, Purchasing Manager
555 S. Section St.
Fairhope, AL 36532

Be advised that overnight delivery by express or courier to Fairhope is not guaranteed. **Faxed or e-mailed bids will not be accepted.**

Questions or comments pertaining to this ITB must be sent to the Purchasing Manager, Jillian Saffle (jillian.saffle@fairhopeal.gov), forty-eight (48) hours prior to the ITB opening or will be forever waived.

ITEM III

INSTRUCTIONS TO BIDDERS

1.0 GENERAL REQUIREMENTS

- 1.1 All Bidders shall be in compliance with all applicable federal, Alabama State, County and municipal laws, regulations, resolutions, and ordinances, including without limitation, all certifications, licenses, and permits, per Alabama Code (1975), as amended, Sections 10-2B-15.01, et seq. (concerning out-of-state corporations doing business within Alabama), Sections 34-8-1, et seq. (concerning general contractor licensing for businesses which construct or superintend the construction of any building, highway, sewer, grading or any improvement of structure costing \$50,000.00 or more), Sections 40-12-1, et seq. (concerning licenses), Sections 40-14A-1, et seq. (concerning taxation of corporations conducting business in this state), and Sections 40-23-1, et seq. (addressing sales and use tax): provided, the bidder is not exempted from the above mentioned Code Sections elsewhere in the Code. All Bidders shall timely submit evidence or documentation establishing that they are presently licensed and permitted under the applicable above-mentioned Code Sections, suitable to, and upon request by, the CITY. Such evidence or documentation may be submitted with the bid.

The bidder expressly acknowledges, to and for the benefit of the CITY, that this Agreement may be funded with federal monies and, therefore bidder expressly warrants and agrees that it shall at times comply with all applicable federal, state, local and municipal laws and regulations. For more information about the Federal regulations visit the website <http://gpoaccess.gov/index.html>

The CITY may make such investigations as deemed necessary to determine the ability of the bidders to furnish all equipment and perform all work. The CITY reserves the right to reject bids from any bidder who by the evidence submitted, or investigation of such bidder, fails to satisfy the CITY that such bidder is properly qualified to carry out the obligations of the contract and to furnish all materials and work contemplated therein.

- 1.2 The City of Fairhope will not furnish any labor, material or supplies unless specifically stated in the Contract documents. CONTRACTOR must be properly licensed to perform the work as outlined in the Scope of Work. Bidder must have a current business license or purchase a business license with the City of Fairhope prior to or (upon) bid being awarded. Where required by State law, State of Alabama CONTRACTOR'S license is required.
- 1.3 All Addenda are part of the Contract Documents. Include resultant costs in the Bid. Addenda will be issued by posting to the City of Fairhope website: www.fairhopeal.gov, and posted on the City of Fairhope Warehouse bulletin board located at 555 S. Section St., Fairhope, AL. It is the responsibility of the bidder to obtain any addenda and verify that all addenda have been received.
- 1.4 The Construction documents are the ITB, Drawings (as required), Addenda, and all other related documents bearing the Bid Name and Bid Number. Bidders shall use complete sets of Construction Documents in preparing their Bids. The City will not assume responsibility for errors or misinterpretation resulting from the use of incomplete sets of Construction Documents.
- 1.5 **WARRANTIES AND REPRESENTATIONS**

This contract is binding upon and insures to the benefit of the City, or Assigns, and is the whole agreement of the parties and governed by the Law of the State of Alabama. The appropriate venue for any litigation resulting hereunder is the Alabama Court, Alabama.

The Contractor shall not discriminate against any employee or applicant due to sex, race, color, creed, national origin or ancestry. The Contractor further certifies he is eligible to perform this contract under local and Federal law, is not now and has never been debarred from performing Federal or State government contracts and that all subcontractors used in the performance of this contract have the same qualifications.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

1.6 **BONDING AND INSURANCE**

Prior to signing of contract, contractor agrees to furnish the City with all applicable certificates of insurance. Within 24 hours following signing of contract, contractor shall provide copies of insurance policies including all endorsements. In addition, a payment and performance bond equal to the estimated event cost for any and all events or \$3,000,000.00, whichever is higher, is required within 10 days of award of the contract. The contractor shall be able to cover expenses associated with a major recovery operation prior to the initial payment and between subsequent payments as well as the aforementioned bonds and insurance.

The Contractor shall save and hold the City, State of Alabama, US Government, their respective employees, officials and agents harmless from and against all liability, claims and demands on account of personal injuries (including without limitation workmen's compensation and death claims) or property loss or damages of any kind whatsoever, which arise out of or be in any manner connected with, or are claimed to arise out of or be in any manner connected with, the performance of this contract, regardless of whether such injury, loss or damage shall be caused by, or be claimed to be caused by, the negligence or other fault of the Contractor, any subcontractor, agent or employee.

1.7 **TITLE 39 / CODE OF COMPLIANCE**

As a condition of any Bid Award and the respective contract(s) pursuant thereto, the City places full reliance upon the fact that it is the sole responsibility of any contractor, person or entity entering into such contract with the City of Fairhope, AL for the prosecution of any public works, to ensure that they and /or any of their respective agents comply with all applicable provisions of Title 39-1-1 et seq. Code of Alabama 1975.

2.0 PROPOSAL SUBMISSION AND PREPARATION

- 2.1 Sealed bids, signed, executed, and dated will be received by the City of Fairhope as noted herein. The bid shall be enclosed in a sealed opaque envelope approximately 9X12 inches or larger, clearly identified on the outside as a SEALED PROPOSAL **with Bidder's Name and Number, Bidder's Name and Address, and opening time and date**. When sent by mail, or courier service, the sealed envelope containing the proposal, marked as indicated above, shall be enclosed in another envelope for mailing.
- 2.2 Forms furnished, or copies thereof, shall be used in strict compliance with the requirements of the Bid, these instructions, and the instructions printed on the forms as necessary. Special care should be exercised in the preparation of bids. Bidders must make their own estimates of the facilities and difficulties attending the performance of the proposed contract, including local conditions, uncertainty of weather, and all other contingencies. All designations and prices shall

be fully and clearly set forth. The proper space in the bid and guaranty forms shall be suitable filled in.

- 2.3 Fill in all blanks on the Bid Form with non-erasable ink or type. Erasers or other changes must be explained or noted over the signature of the bidder.
- 2.4 The Bid Form may have a Contingency Allowance listed. If so, add this amount to the Bid Base to derive the Total Bid. The Contingency Allowance covers unforeseen conditions and shall not be used by the CONTRACTOR without the written authorization of the Owner. At the conclusion of the project, the unused portion of the Contingency Allowance shall revert to the Owner.
- 2.5 Each bid must give the full business address of the bidder and must be signed by him / her with his / her usual signature. Bids by partnerships must furnish the full names of all names of all partners and must be signed with the partnership name by one of the members of the partnership, or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the partnership name by one of the members of the partnership, or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the legal name of the corporation followed by the name of the State of Incorporation and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person who affixes to this signature the word "president", "secretary", "agent", or other designation without disclosing his principal, may be held to be the proposal of the individual signing. When requested by the City of Fairhope, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.
- 2.6 Each project will be bid separately unless otherwise expressly requested in the contract document. Combination bids, that is, bids on separate projects lumped together as a single bid or on all or none basis, will not be accepted unless the contract document expressly requests or permits same. Alternate bids will not be considered unless requested. Bidders are to provide with their bid, a reference list to include name / address / phone number.
- 2.7 Bids may be withdrawn by written or telegraphic request received from the bidder prior to the time fixed for opening. No bid shall be withdrawn for a period of THIRTY (30) days subsequent to the opening of bid without the consent of the City Council of the City of Fairhope.
- 2.8 The CONTRACTOR agrees to perform the work within the time stated in the Bid Response Form. The bidder in submitting an offer accepts the conditions of the contract period stated for performing the work.
- 2.9 If more than one proposal is offered by any one party, by or in a name of his clerk, partner, corporation in which he has a substantial interest, or in which he is an officer, or other person, all such proposals may be rejected. A party who has quoted prices on materials to a proposal is not thereby disqualified from quoting prices to other proposers or from submitting a bid directly for the materials or work. The City reserves the right to determine in its discretion whether the provisions of this clause have been violated by any proposer.
- 2.10 Compliance with or variations from the specifications must be noted as to each item on the Specification Sheet. This requirement must be met even though the Purchasing Manager may alter the specifications in the form of an addendum to accommodate variances. A request for a change in the specifications to accommodate a variation must be called to the attention of the

Purchasing Manager at least seventy-two (72) hours before the bid opening date. All requests for such changes will be considered and the merits weighed. Only those changes in specifications deemed to be in the best interest of the City will be made. In the event of a change in specifications, an addendum will be supplied to bidders. Exceptions may be accepted if they are minor, equal, or superior to that which is specified, and provided that they are listed and fully explained on a separate page entitled, "Exceptions to Specifications". The exceptions shall refer to the specification page and paragraph number. The City shall determine which (if any) exceptions are acceptable and this determination shall be final.

3.0 ERRORS / REJECTION OF PROPOSAL

- 3.1 Bids that contain irregularities of any kind may be declared unacceptable at the discretion of the City. The City may waive any minor irregularities and may reject any or all proposals. Bids received after the deadline will be returned to the proposer unopened.
- 3.2 Bidders or their authorized agents are expected to examine the maps, drawings, specifications, and all other instructions pertaining to the work, which will be open to their inspection. Failure to do so will be at the bidder's own risk. In case of error, in the extension of prices the unit price will govern.
- 3.3 If there is any reason for believing that collusion exists among the bidders, any or all bids may be rejected, and those participating in such collusion may be barred from submitting bids on the same or other work with the City.
- 3.4 The City of Fairhope reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete on time contracts of a similar nature, or a bid of a bidder who is not, in the judgement of the City, in a position to perform the Contract.

4.0 PROPOSAL ACCEPTANCE / AWARD OF CONTRACT

- 4.1 Awards under this solicitation will be made to responsive, qualified, and responsible bidders giving consideration to bid price, expertise/experience of personnel comprising crew(s), type of equipment used, number of crews available from each bidder and administration costs.
- 4.2 Determination for the purposes of award shall be made on the basis of the most qualified bidder as it related to past performance, financial stability, mobilization, resources and pricing. Prior to award, bidders may be required to provide evidence of responsibility and ability to timely perform the contract work. This may include the requirement to provide written documentation of ownership or confirmed rental or other immediate access to the offered equipment and personnel designated by the Contractor(s) to be available for this contract.
- 4.3 The bid to whom award is made must, when requested, enter into written contract on the standard form as set out herein, with satisfactory security in the amount required, within the period specified, or, if no period be specified, within 15 days after the required forms are presented for signature.
- 4.4 At the time of award, the CONTRACTOR shall designate, in writing, a Contractor Representative to receive any Notice required hereunder and who shall be available at the local work site in the CITY, during all times that the CONTRACTOR is performing work in accordance herewith. A copy of said designation shall be provided to the CITY's authorized agent at the time of award.
- 4.5 Limitations: The CONTRACTOR shall not sublet, assign, transfer, convey, sell or otherwise dispose of any portions of the contract, his right, title, or interest therein, or his power to execute such

contact, to any person, firm or corporation without written consent of the City, and such written consent shall not be construed to relieve the CONTRACTOR of any responsibility for the fulfillment of the contract. Unless otherwise stipulated in the proposal or special provisions, the CONTRACTOR shall perform with his own organization, and with the assistance of workmen under his immediate superintendence and reported on his payroll, all contract work of a value not less than 50 percent of the total contract amount, except that any items designated in the contract as "Specialty Items" so performed by sub-contract may be deducted from the total contract amount before computing the amount of work required to be performed by the CONTRACTOR with his own organization.

- 4.6 Sub-contractor's Status: A Sub-CONTRACTOR shall be recognized only in the capacity of an employee or agent of the CONTRACTOR and the CONTRACTOR will be responsible to the City for all of the sub-contractor's work, including failures or omissions; and his removal may be required by the Project Manager, as in the case of an employee.
- 4.7 The CONTRACTOR shall commence work within 10 days of issuance of the *Notice to Proceed* (NTP), or as otherwise directed in writing.
- 4.8 The CONTRACTOR will furnish a Performance Bond and a Labor and Materials Bond in the form and terms approved by the City in an amount not less than the estimated event cost for any and / or all events within ten (10) days of receiving the Notice to Proceed. The cost of said bond premiums will not be an additional cost to the city.
- 4.9 The CONTRACTOR shall prosecute the work continuously and diligently in the order and manner set out in his schedule as approved by the City. He shall provide sufficient satisfactory materials, labor, and equipment, to ensure that the work will be completed in a satisfactory manner within the time specified in the contract.
- 4.10 Should the CONTRACTOR fail to maintain a satisfactory rate of progress, the City may require that additional forces and/or equipment be placed on the work to bring the project up to schedule and maintain it at that level.
- 4.11 Should the Contract fail to furnish sufficient satisfactory equipment and/or labor for maintaining the quality and progress of the work at satisfactory level, the City may withhold all estimates that may become due until satisfactory quality and progress are maintained; or the contract may be annulled.

4.12 **DEFICIENCIES, CORRECTIVE ACTIONS AND DEDUCTIONS**

When the Contractor's work does not conform to the contract requirements completely, a deficiency or breach of contract exists. If a deficiency/breach is serious enough to render a service unacceptable, it is also considered a defect. Defects are important in determining if non-compliance levels have been exceeded for services inspected.

If deficiencies/breaches are identified, the City must take action to correct those deficiencies using one, or in some cases a combination of, the following:

Stop Unsafe Work. The City's authorized agent may immediately stop work on that portion of the job affected by a safety hazard, until it is corrected.

Issue a Stop Work Order. If the City's authorized agent determines the deficiency is serious, the City can issue a stop work order.

The City's authorized agent will notify the Contractor, in writing, of any observed noncompliance with the aforementioned Federal, State, or local laws or regulations. Such notice, when delivered to the Contractor at the site of the work, shall be deemed sufficient for the purpose. After receipt of such notice, the Contractor shall immediately inform the City's authorized agent of proposed corrective action, and take such action as may be approved. If the Contractor fails or refuses to comply promptly, the City's authorized agent may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time, or for excess costs or damages by the Contractor.

The City may discuss corrective actions with the Contractor to prevent future occurrences. The Contract may be terminated. City reserves the right to any and all remedies should a deficiency or breach be determined. Where the Agreement's total value exceeds \$150,000 and the Contractor is found in breach of any of the terms or conditions of that Agreement, Contractor shall provide liquidated damages in an amount consistent with the Agreement to make the City whole after the project is completed, whether by Contractor, surety, new contractor or City forces. The Contractor agrees and understands that the City cannot be whole until the project is completed for the awarded bid amount and any additional costs would be part of the liquidated damages. This section is intended to comply with 2 C.F.R. Chapter 2.

ITEM IV BID BOND

The PRINCIPAL (Proposer's name and address):

The OWNER (Name and Principal place of business):

City of Fairhope
P.O. Drawer 429
Fairhope, AL 36533

The PROJECT and BID No. for which the Principal's Proposal is submitted (Project will be named once the event occurs):

BID No. 020-18 Disaster Debris Removal and Disposal
PROJECT NO. PW _____ -18
PROJECT NAME _____

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned Principal and Surety, jointly and severally, hereby bind ourselves, our heirs, executors, administrators, successors, and assigns to the Owner in the PENAL SUM of ONE THOUSAND DOLLARS (\$1,000.00).

THE CONDITION OF THIS OBLIGATION is that the Principal has submitted to the Owner the attached bid, which is incorporated herein by reference, for the Project identified above.

NOW, THEREFORE, if, within the terms of the Bid Document, the Owner accepts the Principal's bid and the Principal thereafter either:

- (a) executes and delivers a Construction Contract with the required Performance and Payment Bonds (each in the for contained in the Bid Documents and properly completed in accordance with the bid) and delivers evidence of insurance as prescribed in the Bid Documents, or
- (b) fails to execute and deliver such Construction Contract with such Bonds and evidence of insurance, but pays the Owner the difference, not to exceed the Penal Sum of this Bond, between the amount of the Principal's Bid and the larger amount for which the Owner may award a Construction Contract for the same Work to another bidder,
then, this obligation shall be null and void, otherwise it shall remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that the obligation of the Surety under this Bond shall not in any manner be impaired or affected by any extension of the time within which the Owner may accept the Principal's bid, and the Surety does hereby waive notice of any such extension.

SIGNED AND SEALED THIS _____ day of _____, 2018.

Principal (Company)

ATTEST

_____ by _____

Print Name and Title

Surety Company

SURETY ATTEST

_____ by _____

Print Name and Title

The Contractor will furnish a Performance Bond and a Labor and Materials Bond in the form and terms approved by the City in the amount not less than the estimated event cost for any and/or all events within ten (10) days of receiving the Notice to Proceed. The cost of said bond premiums will not be an additional cost to the City.

DO NOT SUBMIT WITH BID; ONLY REQUIRED OF AWARDED VENDOR AT TIME OF ACTIVATION

**ITEM V
PERFORMANCE BOND**

KNOW ALL MEN: That we _____
Insert here the name & address of legal title of the CONTRACTOR

_____ hereinafter called the Principal, and

and _____

hereinafter called the Surety or Sureties, are held and firmly bound unto The City of Fairhope, hereinafter called the Owner in the sum of _____ Dollars (\$ _____) for the payment whereof the Principal and the Surety or Sureties bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly, by these presents.

WHEREAS, the Principal has, by means of a written agreement, dated ____/____/____ entered into a contract with the Owner for: **Bid No. 020-18, Disaster Debris Removal and Disposal, Project PW _____ -18** which agreement is by reference made a part hereof,

NOW THEREFORE, The conditions of this obligation is such that if the Principal shall faithfully perform the Contract on his part, and satisfy all claims and demands, incurred for the same, and shall fully indemnify and save harmless the Owner from all cost and damage which he may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good for any such default thence this obligation shall be null and void; otherwise, it shall remain in full force and effect.

PROVIDED, HOWEVER, that no suit, action or proceedings, by reason of any default whatever be brought on his Bond after twelve months from the day on which the final payment under the Contract falls due.

PROVIDED, further, that the said surety or sureties, for value received hereby stipulate and agree that no change, extension of time, or addition to the terms of the Contract or to the work to be performed thereunder of the Specifications thereof shall in any way effect their obligations on this bond, and they do hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work, or to the Specifications.

WITNESS our hands this _____ day of _____, 2018.

_____, DBA, _____
SIGNATURE of Individual Bidder Business Name

Business Mailing Address

City, State, Zip Code

Name of Corporation, Partnership, or Joint Venture

Business Mailing Address

City, State, Zip Code

BY: _____
Signature of Officer Authorized to sign Bids and
Contracts for the Firm

Position or Title

GENERAL CONTRACTOR'S LICENSE NUMBER

CONTRACTOR'S STATE OF ALABAMA FOREIGN VENDOR REGISTRATION
NUMBER (required of out-of-state vendors)

ATTEST:

Secretary

Name of State under the laws of which incorporated

Name of Surety

By: _____
Attorney in Fact

DO NOT SUBMIT WITH BID; ONLY REQUIRED OF AWARDED VENDOR AT TIME OF ACTIVATION

**ITEM VI
LABOR AND MATERIALS BOND**

KNOW ALL MEN BY THESE PRESENTS, that we: _____

_____ As Principal, and _____ as Surety, are held and firmly bound under said City of Fairhope hereinafter called the Obligee, in the penal sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which sum and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said principal has entered into a certain Contract with said Obligee, dated ____/____/____. (Hereinafter called the Contract) for **Bid No. 020-18 Disaster Debris Removal and Disposal, Project PW _____ - 18** in which Contract and the Specifications for said work shall be deemed a part hereof as fully as if set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the said Principal and all SUB-CONTRACTORS to whom any portion of the work in said contract is sublet and all assignees of said Principal and of such SUB-CONTRACTORS shall promptly make payments to all persons supplying him or them with labor, materials, or supplies for or in the prosecution of the work provided for in such Contract, or any amendment or extension of or addition to said Contract, and for the payment of reasonable attorney's fees incurred by the successful claimant or plaintiffs in suits or claims against the CONTRACTOR arising out of or in connection with the said contract, then the above obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions and limitations.

(a) Any person, firm or corporation that has furnished labor, materials, or supplies for or in the prosecution of the work provided for in said Contract shall have a direct right to action against the Principal and Surety on this bond, which right of action shall be asserted in a proceeding, instituted in the County in which the work provided for in said Contract is to be performed or in any County in which said Principal or Surety does business. Such right of action shall be asserted in a proceeding instituted in the name of the claimant or claimants for his or their use and benefit against the Principal and Surety or either of them (but not later than one year after the final settlement of said Contract falls due) in which action such claim or claims shall be adjusted, and judgment rendered thereon.

(b) The Principal and Surety hereby designate and appoint the Mayor of the City of Fairhope or his successor or representative as the agent of each of them to receive and accept services of process or other pleading issued or filed in any proceeding instituted on this bond and hereby consent that such service shall be the same as personal service on the Principal and/or Surety.

(c) The Surety shall not be liable hereunder for any damages or compensation recoverable under Workmen's Compensation or Employer's Liability Statute.

(d) In no event shall the Surety be liable for a greater sum than the penalty of this bond, or subject to any suit, action or proceeding thereon that is instituted later than one year after the final settlement of said contract.

(e) This Bond is given pursuant to the terms of an Act of the Legislature of the State of Alabama approved February 8, 1935, entitled: "An Act to further provide for Bonds and CONTRACTORS on State and other public

works and suits thereon".

WITNESS our hands this _____ day of _____, 2018.

_____, DBA, _____
SIGNATURE of Individual Bidder Business Name

Business Mailing Address

City, State, Zip Code

Name of Corporation, Partnership, or Joint Venture

Business Mailing Address

City, State, Zip Code

BY: _____
Signature of Officer Authorized to sign Bids and Position or Title
Contracts for the Firm

GENERAL CONTRACTOR'S LICENSE NUMBER CONTRACTOR'S STATE OF ALABAMA FOREIGN VENDOR REGISTRATION
NUMBER (required of out-of-state vendors)

ATTEST:

Secretary Name of State under the laws of which incorporated

Name of Surety By: _____
Attorney in Fact

ITEM VII INSURANCE REQUIREMENTS

Awarded Contractor, at its sole expense, shall obtain and maintain in full force the following insurance to protect the Contractor and the City of Fairhope at limits and coverages specified herein. The City of Fairhope will be listed as an additional insured under the Contractor's General Liability insurance and automobile liability insurance policies and all other applicable policies and certificates of insurance. These limits and coverages specified are the minimum to be maintained and are not intended to represent the correct insurance needed to fully and adequately protect the awarded bidder.

All insurance will be provided by insurers by admitted carriers in the State of Alabama, shall have a minimum A.M. Best rating of A-VII and must be acceptable to the City. Self-insured plans and/or group funds not having an A.M. Best rating must be submitted to the City for prior approval.

NO WORK IS TO BE PERFORMED UNTIL PROOF OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS HAS BEEN RECEIVED BY THE CITY.

Worker's Compensation and Employer's Liability

Part One:	Statutory Benefits as required by the State of Alabama		
Part Two:	Employer's Liability	\$1,000,000	each accident
		\$1,000,000	each employee
		\$1,000,000	Policy Limit

U.S. Longshoreman & Harbor Workers Act (USL&H)

Required if contract involves work near a navigable waterway that may be subject to the USL&H law.

Maritime Endorsement (Jones Act)

Endorsement required if contract involves the use of a Vessel. Or includes coverage for "Master or Member or Crew" under "Protection and Indemnity" coverage (P&I) unless crew is covered under Workers Compensation.

Bodily injury by accident	\$1,000,000	each accident
Bodily injury by disease	\$1,000,000	aggregate

Commercial General Liability

Coverage on an Occurrence from with a combined single limit of (Bodily Injury and Property Damage) combined as follows:

Each occurrence	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Products/Completed Operation Aggregate	\$2,000,000
General Aggregate	\$2,000,000

Coverage to include:

- Premises and operations
- Personal injury and Advertising Injury
- Products/completed operations
- Independent Contractors
- Blanket Contractual Liability
- Explosion, Collapse and Underground hazards

Broad Form Property Damage

Railroad Protective Liability Insurance if work involves construction, demolition, or maintenance operations on or within 50 feet of a railroad.

Automobile Liability

Covering all owned, non-owned, and hired vehicles with a limit of no less than \$1,000,000 combined single limit of Bodily injury and property damage per occurrence.

Certificates of Insurance

A Certificate of Insurance evidencing the above minimum requirements must be provided to and accepted by the City PRIOR to commencement of any work on the contract. Each policy shall be endorsed to provide ten (10) days written notice of cancellation to the City.

The Contractor shall require certificates of insurance from sub-Contractors. Sub-Contractors will carry limits of Insurance equal to or greater than those carried by the Contractor. These certificates shall evidence waivers of subrogation in favor of the Contractor and the City and shall be made available to the City upon request.

ITEM VIII

SCOPE OF WORK AND SPECIFICATIONS

1.0 PROJECT DESCRIPTION

The City of Fairhope is soliciting bids to provide Disaster Debris Removal and Disposal Services following an event within the city limits and some right-of-ways that may be outside the corporate limits of Fairhope, Alabama.

WHEREAS, the CITY OF FAIRHOPE lies on the coast of the State of Alabama and, as such, may experience massive destruction wrought by the impact of a hurricane landfall, violent storms spawning tornadoes as well as other natural and/or manmade disasters (Events); and

WHEREAS, the City of Fairhope lies on the coast of the State of Alabama and, as such, may experience environmental disasters in its air, land or waterborne limits and it is foreseen that it may be necessary to provide technical assistance and response to appointed and elected officials within the City, resulting from these events; and

WHEREAS, it is foreseen that it may be necessary to provide for debris removal and disaster recovery technical assistance to appointed and elected officials within the CITY, resulting from these Events; and

WHEREAS, the CITY has determined after extensive efforts that this is an area of specialized services; and

NOW, THEREFORE, the CITY is requesting bids from contractors to provide services necessary to ensure prompt removal and disposal of debris resulting from a disaster event as follows:

2.0 SCOPE OF WORK

2.1 GENERAL

- 2.1.1 The Contract will follow federal regulations and will adapt to federal regulations as required by law.
- 2.1.2 **The City of Fairhope requests proposal/bid to conduct the following operations in complete compliance with the Code of Federal Regulations, Title 44, Emergency Management Assistance**
- 2.1.3 **Disaster Debris Removal Operations to:**
Remove vegetative debris from City right-of-ways and / or public property and haul to a temporary and / or permanent debris site as determined by the Project Officer.

Remove mixed debris (appliances, household items) and construction and demolition (C&D) debris from City right-of-ways and/or public property to a temporary and/or permanent debris staging site or to a permitted landfill site as determined by the Project Officer.
- 2.1.4 **Disaster Debris Disposal Operations to:**
Chip vegetative debris (limbs and branches) in locations inaccessible to normal debris removal equipment and haul the resulting chips to the designated temporary or permanent site as determined by the Project Officer.

Operate debris vegetative volume reduction site(s) at a location(s) to be selected by the Project Officer. Volume reduction may be by chipping and grinding or air curtain incineration. The Project Officer will select the method to be used based on environmental considerations.

2.2 DEBRIS CLASSIFICATION

2.2.1 Eligible Debris

Debris that is within the scope of this contract falls under three possible classifications to include, Burnable (Reducible), Non-Burnable (Reducible), and Household Hazard Waste.

2.2.2 Burnable Debris

Burnable debris includes all biodegradable matter except that included in the

following definitions of other categories of debris. It includes, but is not limited to, damaged and disturbed trees; bushes and shrubs; broken, partially broken and severed tree limbs; untreated structural timber; untreated wood products; and brush.

2.2.3 Non-Burnable Debris

Non-burnable debris includes, but is not limited to, treated timber; plastic; glass; rubber products; metal products; sheet rock; cloth items; non-wood building materials; and carpeting. Some non-burnable debris is recyclable. Recyclable debris includes metal products (i.e. Mobile Trailer parts, Household appliances (White Metal), and similar items), or uncontaminated soil.

2.2.4 Household Hazardous Waste

The following items are examples of HHW material: home, lawn and garden chemicals used for pest, insect and weed control automotive fuel, windshield wiper fluid, antifreeze, brake fluid, transmission fluid gas additives, gear oil, car batteries, swimming pool additives, lamps and heating oil flammable cleaning solvents, such as kerosene, turpentine, mineral spirits, floor strippers thermometers, thermostats, and barometers containing mercury, photo chemicals.

2.2.5 Root-balls

Tree root-balls will be disposed of by chipping/grinding and will be paid for based on the FEMA Stump Reduction Guidelines.

2.2.6 Chips / Mulch

Chips and mulch is the end product of chipping or grinding wood products. The Contractor(s) must either recycle or dispose of the resulting chips and mulch at a properly permitted landfill site chosen by the Contractor(s)

2.2.7 White Goods

Such as: Appliances such as refrigerators, freezers, stoves, washers, and dryers.

2.3 SPECIAL PROVISIONS FOR DISASTER DEBRIS REMOVAL OPERATIONS

- 2.3.1 For the purpose of this contract and the activities generated by this contract the term "right-of-ways" shall mean the area immediately adjacent (left and right) to the traveled roadway of all identified public access roads within the specified collection debris pickup zones. Contractor(s) will not remove storm debris outside the legal right-of-way.

- 2.3.2 The term “brush and tree parts” shall mean all the portions of trees, to include the root-ball, that have been placed in the “right-of-way” as defined above.
- 2.3.3 It is the intent of this contract that the Contractor(s), shall provide all labor, services, equipment, materials, and supplies necessary to collect all brush, tree parts, mixed debris and C&D debris from City of Fairhope right-of-ways and/or public property, in strict accordance with the Code of Federal Regulations #44, revised October 1, 2004 as published by the office of the Federal Register, National Archives and Records Administration. All vegetative debris will be hauled to a debris site as designated by the Project Officer. All mixed debris and C&D debris will be hauled to either a temporary and/or permanent debris staging site(s) or permitted landfill as determined by the Project Officer.
- 2.3.4 The Contractor(s) shall collect all mixed debris and construction and demolition (C&D) materials from City of Fairhope “right-of-ways” of designated public access roads or from designate temporary and / or permanent debris staging sites as identified by the Project Officer.
- 2.3.5 The Contractor(s) will not trim “hangers” or cut down any trees under this contract without written consent of the Project Officer. The Project Officer will be responsible for directing the tree removal as related to City right-of-way concerns. Any damaged tree, whether on City right-of- way or on private property, that poses a threat to public safety (including critical utilities) will be removed in its entirety per the CFR 44, Title 44. This includes “hangers”, “leaning trees” and the stumps associated with such a tree.
- 2.3.6 The Contractor(s) shall exercise care so as not to generate litter during the removal process. The Contractor(s) shall clean up loose material in the immediate vicinity of the rights-of-ways. The Contractor(s) shall be responsible for the repair of any collateral damages caused to private or public property.
- 2.3.7 Work shall consist of a minimum of three (3) passes, unless otherwise directed by the Project Officer, to collect all of the brush, tree parts, mixed debris, and C&D debris set out by residents for collection within the rights-of-way from both sides of the roadway.
- 2.3.8 The Project Officer reserves the right to direct the Contractor(s) to return to and make additional passes in designated locations within the pickup zone(s) at the same price per cubic yard rate as specified in the bid schedule.
- 2.3.9 **Measuring Vehicle Load Carrying Capacity**
Prior to any debris removal work under this awarded contract, the Contractor(s) shall submit to the Project Officer a typed listing and pdf. file that indicate the type of vehicle, make and model, license plate number, drivers name, Contractor(s) equipment number and measured interior volume, in cubic yards, of the load bed of each piece of equipment utilized to haul debris. The Contractor(s) and Project Officer or his/her representative shall jointly measure the volume of each piece of equipment calculated from actual interior bed measurements. Maximum volumes may be rounded to the nearest cubic yard (<18.5 CY = 18 CY - >18.5 CY = 19 CY). The reported measured maximum volume of any load bed shall be the same as shown on the signs fixed to each piece of equipment.

2.3.10 Equipment Signage

Prior to commencing operations, the Contractor(s) shall affix to each piece of equipment, signs or markings indicating the Owner/Operator's name and a unique equipment identification number. One sign shall be placed on each side of the equipment. For those trucks, trailers and other equipment intended to haul debris, the maximum volume, in cubic yards, of the load bed shall also be shown. Signs shall be maintained in an easily readable fashion for the duration of the work. Minimum letter size shall be 3 inches in height.

- 2.3.11 The Project Officer desires that the Contractor(s) maximize the use of self-loading trucks equipped with grapples or loaders with grapple attachments to reduce potential collateral damage and to expedite the cleanup operation.
- 2.3.12 The Contractor(s)'s representative must coordinate daily with the Project Officer. The Contractor(s)'s representative must have the authority to act on behalf of the Contractor(s) to address and resolve issues that may arise during the course of this work.
- 2.3.13 The Contractor(s) shall provide proof, in the form of signed copies of load tickets, of proper delivery to the designated disposal location(s). Such load tickets shall be checked against the log of deliveries compiled by the Project Officer's representative and shall be the basis for payment.
- 2.3.14 The Contractor(s) shall notify the Project Officer's representative of any significant damage to public or private property or major problems, such as equipment failure or loss of qualified labor, on a daily basis.
- 2.3.15 The Contractor(s) shall work during daylight hours only, 7 days per week. The Contractor(s) are responsible for coordinating with the Project Officer in the event weather condition delay or modify the proposed daily schedule. The Project Officer will set the daily time schedule for each Event.
- 2.3.16 Traffic Control. The Contractor(s) shall be responsible for control of pedestrian and vehicular traffic in the work area. Contractor(s) shall provide all flag persons, signs, equipment, and other devices necessary to meet Federal and local requirements. As a minimum, one flag person shall be posted at each loading site to direct traffic.
- 2.3.17 The Project Officer's representative will monitor all Contractor(s) operations. Payment will be based on validated load tickets. The Project Officer's representative will have load site monitors stationed at designated "Check Points" chosen by the Contractor(s) and coordinated with the Project Officer's representative the day before. The "Check Points" must be kept to a minimum and located at a safe site along the primary haul road to the designated disposal site. The Project Officer's load site monitors will be stationed at the "Check Point" and each truck driver will be given a load ticket that validates where the material originated. The quantity of debris hauled will be estimated at the disposal site by the Project Officer's disposal site monitor. The estimated quantity will be recorded on the load ticket and a copy of the load ticket given to the truck driver.
- 2.3.18 The Project Officer will also have roving monitors that will observe Contractor(s) operations to ensure that only eligible debris is removed from specified locations as designated by the Project Officer. Trucks that are observed picking up material

outside of the designated road right-of-ways or ineligible debris will have all loads hauled that day deducted and the load tickets invalidated.

- 2.3.19 The Contractor(s) shall be prepared to provide hand-fed chipping equipment and crew to conduct on-street chipping of vegetative debris (tree limbs/branches) in areas inaccessible to normal debris clearing equipment. Locations of on-street chipping operations will be identified by the Project Officer. The on-street chipping crews will consist of a combination of equipment and personnel as specified in the bidding schedule.
- 2.3.20 The Contractor(s) shall specify the number of crews he/she can provide on the bid schedule submitted. The total number of actual hours worked by each crew will be according to the needs of the Project Officer. It is estimated that each crew will work a minimum of 10 hours (daylight) per day 7 days per week. Actual hours to be determined by Project Officer. Services required under this contract will also be determined by the Project Officer.
- 2.3.21 All limbs, branches, foliage, etc. in inaccessible areas will be chipped on site using a hand-fed chipper. Chips and other tree debris will be collected and hauled away from work areas by the Contractor(s) immediately following completion of the work.
- 2.3.22 No guarantee of minimum number of crews is implied or expressed and payment for services will only be made for actual work performed as required by the Project Officer.
- 2.3.23 Household Hazardous Waste (HHW) materials will not be removed from the rights-of-way under this contract. Residents will be provided locations of drop off points for the disposal of their HHW materials.
- 2.3.24 The work area includes various locations throughout the City of Fairhope. The City has been divided into established work areas.
- 2.3.25 Work location and assignments of all contractual crews shall be coordinated daily with the Project Officer. Contractor(s) shall report at the start of each workday to the Project Officer the Contractor(s)'s work locations and any foreseen delays or problems.
- 2.3.26 There will be no truck "pre-loads" allowed after normal working hours. Trucks presenting loads at the TDSRS (Temporary Debris Storage and Reduction Site) which have been loaded after normal working hours, without the presence of a Project Officer assigned debris monitor will be ineligible for payment processing.
- 2.3.27 For the purpose of this contract, Emergency Road Clearing operations (where applicable) conducted on Federal Aid roads/rights-of-way, shall be conducted in strict accordance with Federal Highway Administration-Emergency Response manual (see attached emergency road clearing-cost proposal hourly rate sheet). Contractor of record must clearly understand the FHWA guidelines for this type of operation regarding distances from road (based on road type), separate tracking & managing of debris operations, etc. See attached FHWA – 1273
- 2.3.28 It is the intent of this Contract that the Contractor(s), shall provide all labor, services, equipment, materials, and supplies necessary to accept, process, and reduce through either tub grinding vegetative debris into chips/mulch or through air curtain incineration

into ash or an approved permanent disposal work site. The Project Officer will determine the method to be used based on environmental considerations.

- 2.3.29 The location(s) of the vegetative debris volume reduction sites will be selected by the Project Officer, or the Contractor may provide the site with Project Officer approval.
- 2.3.30 The Contractor(s) shall provide equipment and personnel to manage and operate (# of sites will be determined after an event occurs and will be based on event severity) vegetative debris volume reduction site(s). The Project Officer will provide access and authorization to the Contractor(s) to operate on the designated vegetative debris reduction site(s) including all information in the Project Officer's possession regarding the site which is necessary for the successful operation of the site(s). Location of site(s) will be determined by the Project Officer.
- 2.3.31 **Inspection Tower**
 - 2.3.31.1 The Contractor(s) shall construct (the # of towers per site shall be determined by the contractor) inspection tower(s) at the selected temporary vegetative debris volume reduction site(s).
 - 2.3.31.2 The tower(s) shall be constructed using pressure treated wood. The floor elevation of the tower shall be 10 feet above the existing ground elevation. The floor area shall be 8' by 8', constructed of 2"x 8" joists, 16" O.C. with ¾" plywood supported by four 6" x 6" posts. The perimeter of the floor area shall be protected by a 4-foot-high wall constructed of 2" x 4" studs and ½" inch plywood. The floor area shall be covered with a corrugated tin roof. The roof shall provide a minimum of 6'-6" of head room below the support beams. Access shall be provided by wooden steps with a hand rail or approved equally by project officer.
 - 2.3.31.3 The Contractor(s) shall make provisions for portable sanitary facilities to be provided and maintained at the inspection tower.
- 2.3.32 The Project Officer will not provide to the Contractor(s) potable water, sewage treatment, fuel, electricity, other utilities, or other personnel, materials or equipment deemed necessary to operate the vegetative debris volume reduction site.
- 2.3.33 Contractor(s) will establish lined temporary storage areas for hazardous and toxic waste, household hazardous waste, fuels, and other materials that can contaminate soils, runoff, or groundwater. Contractor(s) shall set up plastic liners under stationary equipment such as generators and mobile lighting plants unless otherwise directed by the Project Officer
- 2.3.34 Contractor(s) shall be responsible for establishing site layout.
- 2.3.35 Contractor(s) will be responsible for traffic control, dust control, erosion control, fire protection, on-site roadway maintenance, and safety measures. The Contractor(s) shall comply with all Federal, state, and local safety regulations.
- 2.3.36 Contractor(s) shall manage the site to accept debris collected under other contracts. Contractor(s) shall direct traffic entering and leaving the site and shall direct dumping operations at the site.

- 2.3.37 Upon completion of the debris reduction process, the Contractor(s) will clear the site of all mulch, and non-burnable debris and restore the site to as near its pre-use condition as practical.
- 2.3.38 Contractor(s) shall be responsible for all costs associated with the proper disposal of volume reduction residue at an approved disposal facility.
- 2.3.39 The Contractor(s) shall conduct the work so as not to interfere with the disaster response and recovery activities of Federal and local governments or agencies, or of any public utilities.
- 2.3.40 **Volume Reduction Site Equipment**
- 2.3.40.1 The Contractor(s) shall provide all equipment necessary to prepare the site, stockpile the debris, feed the grinder(s), remove mulch from the grinding operations, load and haul for disposal all non-burnable debris, chips / mulch, and any other equipment which may be necessary for the performance of this contract.
- 2.3.40.2 All equipment must be in compliance with all applicable Federal, state, and local rules and regulations. All equipment and operator qualifications will meet Federal, state, and local requirements.
- 2.3.40.3 Prior to commencing debris reduction and disposal services, the Contractor(s) shall present the Project Officer, for approval, a detailed description of all equipment to be used for debris handling, sorting, processing, grinding, loading, and hauling, stating brand name, model and horsepower including all grinders.
- 2.3.40.4 Chips/mulch should be stored in piles no higher than 15 feet and meet all local regulations and laws.
- 2.3.41 **Site Considerations**
- 2.3.41.1 Site Plan: The Contractor(s) will provide a site operation plan for review and approval by the Project Office prior to beginning work. At a minimum, the plan will address the following:
- Access to site
 - Site management to include: point-of-contact, organizational chart, etc.
 - Traffic control procedures
 - Site security
 - Site safety
 - Site layout / segregation plan
 - Hazardous materials storage plan
 - Environmental mitigation plan, including considerations for smoke, dust, noise, traffic, buffer zones, and storm water
- 2.3.42 Site Preparation
- The Contractor(s) shall be responsible for preparing the site(s) to accept the debris if required. Site preparation may include clearing, erosion control, grading, construction and maintenance of haul roads and entrances. Site preparation will be paid based on the

actual cost incurred by the Contractor(s) based on actual equipment, personnel, and material invoices.

2.3.43 Utilities and Sanitation Facilities

The Contractor(s) shall provide utility clearances and sanitation facilities, if needed. The Contractor(s) shall protect existing structures at the sites and repair any damage caused by his operations at no additional cost to the City of Fairhope.

2.3.44 Site Security

The Contractor(s) shall be responsible for installing site security measures and maintaining security for operations at the site.

2.3.45 Fire Protection

The Contractor(s) shall manage the site to minimize the risk of fire.

2.3.46 Traffic Control

The Contractor(s) shall be responsible for control of pedestrian and vehicular traffic in the work area. Contractor(s) shall provide all flag persons, signs, equipment, and other devices necessary to meet Federal and local requirements. The traffic control personnel and equipment shall be in addition to the personnel and equipment required in other parts of this contract. As a minimum, one flag person shall be posted at each entrance to direct traffic to the site

2.3.47 Debris Ownership

The Contractor(s) must assume possession of all processed debris and may dispose of such debris in a manner that creates income for the Contractor(s). Reduction and disposal of the debris is the sole responsibility of the Contractor(s)

2.3.48 Debris Disposal

The Contractor(s) must remove or arrange for the removal and final disposal of all debris brought to the debris reduction site. Options include, but are not limited to, sending the material to an authorized and properly permitted disposal area, recycling facility, or resale entity. The Contractor(s) must maintain records for all materials, including processed debris, residue, and hazardous materials, being transported from the debris reduction site to disposal or recycling facilities.

The Contractor(s) must secure an EPA Identification Number prior to the lawful disposal of any ash determined to be hazardous based on analytical results. Copies of this documentation must be provided to the Project Officer for his/her review. The Contractor(s) shall be considered the owner of all debris brought to the vegetative debris volume reduction site.

2.3.49 Site Closure

The Contractor(s) shall be responsible for the closure of the debris management site(s) within 30 calendar days of receiving the last load of disaster-related debris. This closure shall include removal of site equipment, debris, and all remnants from the processing operation (such as temporary toilets, observation towers, security fence, etc.), and grading the site, and restoring the site to pre-work conditions. The site will be restored in accordance with all local requirements. The Contractor(s) is responsible for the proper disposal of non-burnable debris and wood chips. Disposal of the hazardous waste debris is the responsibility of the Contractor(s) under this contract. The Contractor(s) shall

receive approval from the Project Officer as to the final acceptance of a site closure. Final payment shall be released to the Contractor(s) upon acceptance of the site by the Project Officer.

2.4 SAFETY STANDARDS

- 2.4.1 The Contractor(s) shall be solely responsible for pedestrian and vehicular safety and control within the assigned worksite and shall provide the necessary warning devices, barricades and ground personnel needed to give safety, warning, and protection to persons and vehicular traffic within the work area.
- 2.4.2 Closure or blocking of public streets and other rights-of-way shall not be permitted unless prior arrangements have been made with the Project Officer and is coordinated with appropriate departments. Traffic control is the responsibility of the Contractor(s) and shall be accomplished in conformance with local traffic codes.

2.5 EQUIPMENT USE

- 2.5.1 The Contractor(s) shall provide all equipment necessary for the performance of this contract. All equipment repairs, and operating costs shall be the responsibility of the Contractor(s).
- 2.5.2 All equipment must be in compliance with bid specifications and all applicable Federal, state, and local rules and regulations.
- 2.5.3 Equipment which is designated for use under this contract shall not be used for any other work during the working hours of this Contract. The Contractor(s) shall not solicit work from private citizens or others to be performed in designated work areas during the duration of this contract. Under no circumstances will the Contractor(s) mix tree debris hauled or processed for others with tree debris hauled or processed under this Contract.
- 2.5.4 No debris will be allowed to accumulate or be stored on adjacent private property at any time.
- 2.5.5 **Contractor must provide GPS location capability, to pinpoint debris pickup locations in GPS co-ordinates, as required by FEMA Disaster Assistance Policy DAP9523.11, "Hazardous Stump Extraction and Removal Eligibility", including, but not limited to, "Hazardous Stump Worksheet" requirements therein (see Attachments).**

2.6 REPORTING

- 2.6.1 **The Contractor(s) shall submit a separate written report for each of his/her chipping crews at the end of each workday to the Project Officer.** Each report shall contain at a minimum, the following information:

Contractor's Name

Contract Specification Number

Number of the various pieces of major equipment used (i.e. chipper, etc.)

Name of personnel who worked

Daily cumulative totals of hours each person worked and each piece of equipment that was used by crew (list type and equipment number)

Any problems encountered (i.e. equipment breakdowns, inclement weather, property damage, worker injuries, etc.) during the work day. Such problems shall also be reported immediately to the Project Officer.

Quantity and type of debris hauled during the past 12 hours

- 2.6.2 The Contractor(s) shall submit a written report to the Project Officer no later than 9:00 A.M. each day for the previous day's activities. Each report shall contain, at a minimum, the following information:

Contractor(s)'s Name

Contract Number

Daily and cumulative totals of debris hauled to each volume reduction site. Include site name.

Daily and cumulative totals of debris hauled to a permitted landfill. Include landfill name.

Daily and cumulative totals of debris processed, to include method(s) of processing.

Daily and cumulative totals of ash/mulch/chips removed from the site and location of permitted landfill site(s).

Any problems encountered or anticipated.

2.7 PAYMENT

2.7.1 On-Street Chipping Crews

Payment to the Contractor(s) for on-street chipping work will be made based upon the unit price per crew times the number of actual hours each crew worked as specified in the bidding schedule.

2.7.1.1 Contract payments shall be made by the City to the Contractor(s) upon submitting of a billing statement for actual work done by the Contractor(s). All billing statements or invoices submitted for payment shall be original and should be sent to the City every two weeks.

2.7.1.2 Billing statement or invoice should include company name and address, locations of where work has been done, to include street names and addresses by crew(s).

2.7.1.3 Partial billings are acceptable on a weekly basis. Payment is made according to actual number of crew hours worked by each crew. All Contractor documents shall be reconciled, completed and submitted to the City the day after project completion.

2.7.2 Debris Removal Operations

2.7.2.1 Compensation will be based on completed load tickets administered and validated by the Project Officer's monitors based on the Contractor(s)'s unit price per cubic yard hauled from the rights-of-way and/or public property.

2.7.2.2 Hauling of debris from right-of-ways and/or public property to a vegetative debris reduction site will be paid for at the bid schedule per cubic rate based on the one-way distance traveled (0-15 one-way miles, 16-30 one-way miles). The Project Officer will determine the one-way mileage. Payment will be based on the quantity, in cubic yards, recorded on the load ticket obtained at the permitted landfill and verified by the Project Officer's disposal site monitor.

2.7.2.3 Hauling of debris from right-of-ways and/or public property to a permitted landfill site will be paid for at the bid schedule per cubic rate based on the

one-way distance traveled (0-15 one-way miles or 16-30 one-way miles). The Project Officer will determine the one-way mileage. Payment will be based on the quantity, in cubic yards, on the load ticket obtained at the permitted landfill and verified by the Project Officer's disposal site monitor or weight ticket.

- 2.7.2.4 The following **conversion** factors will be used if the landfill site weighs vehicles by the ton:

Conversion Factors from Cubic Yards to Tons

Mixed Construction & Demolition Debris = 500 LBS/CY or $CY \times 0.25 = \text{Tons}$

Yard Vegetation = 300 LBS/CY or $CY \times 0.15 = \text{Tons}$

Mulch = 500 LBS/CY or $CY \times 0.25 = \text{Tons}$

Regular Trash = 300 LBS/CY or $CY \times 0.15 = \text{Tons}$

Concrete = 2000 LBS/CY or $CY \times 1.0 = \text{Tons}$

Sand = 2600 LBS/CY or $CY \times 1.3 = \text{Tons}$

Land Clearing (Root balls with dirt) 1500 LBS/CY or $CY \times 0.75 = \text{Tons}$

2.7.3 **Debris Vegetation Volume Reduction Site Operations**

- 2.7.3.1 Debris volume reduction site operations will be paid based on the total cubic yards of debris that are delivered to the volume reduction site for processing and disposal as recorded on load ticket validated by the Project Officer's disposal site monitor. The unit price per cubic yard of material processed must include all subsidiary costs including, but not limited to, site setup, labor, equipment, fuel, environmental controls, maintenance, general administration and disposal.

- 2.7.3.2 Hazardous Stump Reduction will be paid based on the "FEMA Eligibility of Hazardous Stump Removal" conversion chart.

- 2.7.3.3 Compensation will be based on completed haul tickets administered and validated by the Project Officer's monitors. Payment will be based on the Contractor(s)'s volume reduction unit price as stated on the bid schedule

2.8 ADDITIONAL INFORMATION

- 2.8.1 The Project Officer shall have the right to terminate a contract or a part thereof before the work is completed in the event:
- 2.8.1.1 Previous unknown circumstances arise making it desirable in the public interest to void the contract
- 2.8.1.2 The Contractor(s) is not adequately complying with the specifications
- 2.8.1.3 Proper techniques are not being followed after warning notification by the Project Officer

- 2.8.1.4 The Contractor(s) refuses, neglects, or fails to supply properly trained or skilled supervisory personnel and/or workers or proper equipment of the specified quality and quantity
- 2.8.1.5 The Contractor(s), in the judgment of the Project Officer is unnecessarily or willfully delaying the performance and completion of the work
- 2.8.1.6 The Contractor(s) refuses to proceed with work when and as directed by the Project Officer
- 2.8.1.7 The Contractor(s) abandons the work
- 2.8.1.8 The Contractor(s) employs subcontract who are on the Federal debarred listing
- 2.8.1.9 The Contractor, in the judgment of the Project Officer, is not meeting or practicing sound safety measures

2.9 PERFORMANCE SCHEDULE

- 2.9.1 Immediately following Bid Opening, the apparent responsible bidder(s) will meet with the Project Officer to discuss matters of judgment, safety, quality control, coordination, payment, record keeping, and reporting.
- 2.9.2 Within 24 hours of the City's Declaration of a State of Emergency, and/or notification to Contractor, the Project Manager shall report to the City's Emergency Operations Commander (EOC), or such other place as designated by the City. After the City has given a Notice to Proceed, the Contractor shall begin preparation for mobilization immediately and be fully operational within 48 hours.
- 2.9.3 The Contractor(s) shall commence work in designated debris zones as identified by the Project Officer within forty-eight (48) hours after issuance of Purchase Order, and notification by Project Officer. The Contractor shall work 7 days a week until debris removal is completed. Time frame: completion of debris removal within 90 days, unless approved by City Project Official.
- 2.9.4 The Contractor(s) is required to grind a minimum of 200-250 cubic yards per hour per grinder with 4 hours of down time for service per 24 hours. The minimum required reduction/disposal rate shall be achieved no later than the third calendar day after receipt of Notice to Proceed. Liquidated damages shall be assessed at \$250.00 per calendar day for any day in which the minimum-processing rate is not met.
- 2.9.5 The Contractor is responsible for:
 - 2.9.5.1 Getting debris to the TDSRS
 - 2.9.5.2 Reducing and disposing debris
- 2.9.6 All work, including site restoration prior to close-out, shall be completed within 30 calendar days after receiving notice from the Project Officer that the last load of debris has been delivered, unless the Project Officer initiates additions or deletions to the contract by written change orders. Subsequent changes in completion time will be equitably negotiated by both parties pursuant to applicable state and federal law.

Liquidated damages shall be assessed at \$500.00 per calendar day for any time over the maximum allowable time established above.

- 2.9.7 Unless directed otherwise by the Project Officer, the Contractor(s) shall conduct volumetric reduction operations 18 hours per day, 7 days per week. Hauling of debris from rights-of-way and public property will be limited to daylight hours, 7 days per week.

2.10 HOUSEHOLD HAZARDOUS WASTE

- 2.10.1 The Contractor(s) will be required to construct a Household Hazardous Waste (HHW) containment area at the temporary debris management site(s). This containment area will consist of an earthen berm with a non-permeable liner. The HHW containment area must be covered at all times with a non-permeable cover.
- 2.10.2 Material, which is found to be classified as HHW, shall be reported immediately to the Project Officer. This material shall be segregated from the remaining debris using a method, which will allow the remaining non-HHW debris to be processed. All HHW debris will be moved and placed in the designated HHW containment area.
- 2.10.3 Disposal of the HHW debris will be coordinated by the Project Officer.

2.11 CONTRACTOR(S) PETROLEUM, OIL, LUBRICANT (POL) SPILLS

- 2.11.1 The Contractor(s) shall be responsible for reporting to the Project Officer and cleaning up all petroleum, oil, and lubricant (POL) spills caused by the Contractor(s)'s operations at no additional cost to the City of Fairhope.
- 2.11.2 Immediate containment actions shall be taken as necessary to minimize effect of any spill or leak. Cleanup shall be in accordance with applicable Federal and local laws and regulations.
- 2.11.3 Spills other than on the TDSRS site shall be reported to the National Response Center, and the Project Officer immediately following discovery. A written follow-up shall be submitted to the Project Officer not later than 7 days after the initial report. The written report shall be in narrative form, and as a minimum shall include the following:
- Description of the material spilled (including identity, quantity, etc.)
Determination as to whether or not the amount spilled is EPA/State reportable, and when and to whom it was reported
Exact time and location of spill, including description of the area involved
Receiving stream or waters
Cause of incident and equipment and personnel involved
Injuries or property damage
Duration of discharge
Containment procedures initiated
Summary of all communications the Contractor(s) has had with press or other officials
Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue
- 2.11.4 There will be a **\$1,000.00 per day liquidated damage fine for a contractor causing a hazardous material spill**. Costs begin from the time the spill occurs until complete remediation is completed.

2.12 OTHER CONSIDERATIONS

- 2.12.1 The Contractor(s) shall supervise and direct the work, using qualified labor and proper equipment for all tasks. Safety of the Contractor(s)'s personnel and equipment are the responsibility of the Contractor(s). Additionally, the Contractor(s) shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this Contract.
- 2.12.2 The Contractor(s) must be duly licensed in accordance with the State of Alabama statutory and regulatory requirements to perform the work. The Contractor(s) shall obtain all permits necessary to complete the work. The Contractor(s) shall be responsible for determining what permits will be necessary to perform under the contract. Copies of all permits shall be submitted to the Project Officer.
- 2.12.3 The Contractor(s) shall be responsible for correcting any notices of violations issued as a result of the Contractor(s) or any subcontractors' actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost to the Project Officer.
- 2.12.4 The Contractor(s) shall be responsible for paying any and all costs associated with violations of law or regulation relative to his/her activities. Such costs might include but are not limited to: site cleanup and/or remediation; fines, administrative or civil penalties; and third-party claims imposed on the Project Officer by any regulatory agency or by any third party as a result of noncompliance with Federal or local environmental laws and regulations or nuisance statutes by Contractor(s), his/her Subcontractors, or any other persons, corporations or legal entities retained by the Contractor(s) under this contract.
- 2.12.5 Meetings
The Contractor(s) must attend any and all meetings required by the Project Officer to evaluate the operation of the debris reduction site, and/or clean-up operations.
- 2.12.6 Quality Assurance
The Contractor(s) must provide sufficient personnel and management to assure the policies and procedures of work meets the requirements of this contract. The Project Officer will closely monitor the work.
- 2.12.7 No debris shall be allowed to accumulate or be stored on public property or private property at any time without proper authorization from the Project Officer. Under no circumstances shall the accumulation of brush, limbs, cut trunks/logs or other debris be allowed on a public right-of-way in.
- 2.12.8 The selected Contractor(s) is legally responsible for damage to public and/or private property while performing the duties outlined in these specifications (See Insurance Requirements).
- 2.12.9 Any damage to public and/or private property shall be reported to the Project Officer immediately following its occurrence.
- 2.12.10 The selected Contractor(s) shall erect proper barricades, signs and warning devices as necessary, for sidewalk and traffic closure/control when doing on-street grinding or debris removal operations.

- 2.12.11 The Project Officer shall have the right to require the selected Contractor(s) to redo any work that is not done satisfactorily and in accordance with the specifications and/or standards stated.
- 2.12.12 Such work needing to be redone shall be performed promptly and at no additional cost to the City of Fairhope, either during, or after the expiration of the resulting agreement.
- 2.12.13 Any use of tools or equipment in an unsafe condition or manner or application of techniques or methods defined to be unsafe to life or property is strictly forbidden. The Project Officer retains the authority to cease any and all contractor operations, which he deems unsafe.
- 2.12.14 The selected Contractor(s) is responsible for the preservation of all public and private property including turf, landscaping, sidewalks, curbs, fences, driveways, sprinkler heads and valves. If any direct or indirect damage occurs to public or private property, on account of any act, omission, neglect or misconduct in the execution of the work on the part of the selected Contractor(s), such property shall be restored by the Contractor(s) at his expense to a condition similar or equal to that existing before such damage or injury, or he/she shall repair such damage in a manner acceptable to the Project Officer.
- 2.12.15 Whenever electric or telephone lines, gas lines, water lines or any other improvement, public or private, may be jeopardized by any authorized work done by the selected Contractor(s), the proper authorities of the utilities involved, or property owner involved, shall be consulted by the selected Contractor(s) prior to performing any work activity and all requested reasonable precautions by any such authority or persons shall be complied with.
- 2.12.16 The selected Contractor(s) shall contact Alabama Line Locate, Riviera Utilities, and Fairhope Utilities, or others as necessary to determine the location of underground utilities (i.e. gas, electric, telephone, cable television) that may be impacted 48 hours before debris operations commence.
- 2.12.17 All motor vehicles and other major equipment used by the selected Contractor(s) to do work shall be clearly identified with the name of their company.
- 2.12.18 Safety of the Contractor(s)'s personnel and equipment are the responsibility of the Contractor(s). Additionally, the Contractor(s) shall pay for all materials, personnel, taxes and fees necessary to perform under the terms of this Contract.
- 2.12.19 The Contractor(s) shall be responsible for correcting any notices of violations issued as a result of the Contractor(s)'s actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost to the City of Fairhope.

2.13 MEASUREMENTS

- 2.13.1 Measurements of debris processed at the volume reduction site will be by the Cubic Yard as estimated by the disposal site monitor and recorded on City of Fairhope load tickets.

2.14 CONTRACT AWARD

- 2.14.1 The City of Fairhope reserves the rights to award one or more contracts based upon the amount of anticipated work needing to be done. Awards under this solicitation will be

made to responsive, qualified, and responsible bidders giving consideration to bid price, expertise / experience of personnel comprising crew(s), type of equipment used, number of crews available from each bidder and administration costs.

- 2.14.2 Determination for the purposes of award shall be made on the basis of the most qualified bidder as it related to past performance, financial stability, mobilization, resources and pricing.
- 2.14.3 Prior to award, bidders may be required to provide evidence of responsibility and ability to timely perform the contract work. This may include the requirement to provide written documentation of ownership or confirmed rental or other immediate access to the offered equipment and personnel designated by the Contractor(s) to be available for this contract.

2.15 ENVIRONMENTAL DISASTER

- 2.15.1 The Contractor(s) shall be responsible for providing the City of Fairhope with planning, reporting, technical assistance and response to any environmental disaster, whether the cause be natural or manmade. Said environmental disaster, whether it be airborne, land based or waterborne, may or may not involve synonymous response to a disaster debris operation, this may be a response totally unrelated to a severe storm, hurricane or tornado.
- 2.15.2 The Contractor(s) shall submit to the City, included in their bid submission, a list of potential subcontractors and their professional qualifications, who would provide environmental remediation and services noted in Item 2.16.1.
- 2.15.3 The intent of this section is to engage the services of a Contractor(s) responding to either a manmade event, resulting in an environmental disaster or a natural disaster such as a severe storm, hurricane or tornado, resulting in an environmental disaster.

3.0 MINIMUM REQUIREMENTS FOR BIDS

- 3.1 Bidder shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by 29 C.F.R. Part 5; Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by 29 C.F.R. Part 5; all applicable standards orders or regulations issued pursuant to the Clean Air Act generally and specifically Sections 306 and 508 of the Clean Water Act (42 U.S.C. 1857(h)) Executive Order 11738; and 40 C.F.R. Part 15, Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and mandatory standards relating to energy efficiency contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871. Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. This compliance includes but is not limited to procuring only items designated in guidelines of the EPA (40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 3.2 Any award of a contract utilizing federal funds or with the possibility of federal reimbursement in excess of \$100,000 that involve mechanics or laborers must comply with 40 U.S.C. 3702 and 3704 as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Further, under 40 U.S.C.

3704 no laborers and mechanics in construction work must be required to work in unsanitary hazardous or dangerous working conditions or surroundings.

- 3.3 Bidder shall retain all records for a minimum of four years after final payment. Proposer agrees to allow access by City, any relevant Federal Agency, or the Comptroller General of the United States to any records, documents books or papers for the purpose of audit, examination, excerpts or transcription.
- 3.4 Bidder agrees that patent rights with respect to any discovery or invention that arises or is developed in the course of or under this contract shall be owned by the City.
- 3.5 Bidder agrees that copyright and rights in data with respect to any discovery or invention that arises or is developed in the course of or under this contract shall be owned by the City.
- 3.6 The bidder shall ensure that foreign workers are legal and documented to work in the United States.

4.0 SUBMISSION REQUIREMENTS

To be considered, submit one (1) original and four (4) completed copies

The following must be tabbed and labeled with the corresponding number:

1. Company Contacts

- a. Name, address, phone number, fax number, and e-mail address of the person or firm submitting the proposal.
- b. Provide the name, title, email address, and contact number for key project managers, officials, and executive staff.

2. Bond, Insurance, and License

Bid Bond, Certificates of Insurance as required in ITEM VII of this ITB, and a copy of State of Alabama Contractor's License.

3. Financial Capability

A letter from a minimum of one financial institution certifying the Contractor's ability to finance through current capital or credit capabilities, estimated work responsibilities of **two million dollars** in an activated disaster debris removal and disposal contract. This ability must be inclusive of sustaining the City's monthly payment schedule with 15-day minimum lead time of approved invoices.

4. Past Performance

- a. Provide a list of firm's disaster debris removal projects completed within the past ten (10) years (include all projects within the State of Alabama) that are the same or larger to the magnitude for this RFP, including the public agency, their contact information, FEMA contacts, name of the project, response time, and dollar value
- b. Provide a list of any disputes, Litigation and Resolution including: Past and Present litigation and disputes, Licenses Sanctions, Lost or Cancelled Accounts and Contract Denials – if none, please make a notation.
- c. List of Contracts that have been canceled prematurely within the past 15 years – if none, please make a notation.

5. Contractor Qualifications

- a. List and discuss firm's qualifications to meet the City's objectives and perform tasks listed in the proposal. This shall include the size of the firm, office location from which the service is being performed, and nature of staff and equipment to be employed for each type of storm event – include the physical location of equipment to be deployed.
- b. Include the number of years of experience in disaster response and recovery.
- c. List experience and training level of key team members who will be deployed under this contract – provide brief resumes for each team member.
- d. Discuss experience with FEMA and State Agency reimbursement programs and funding procedures.
- e. Provide client's letters of satisfactory or better performance on contracts of similar scope and size.
- f. List of subcontractors and equipment to be used.

6. Equipment Capability

- a. List types and quantities of company-owned disaster recovery equipment (classify each as owned or leased).
- b. Provide a statement of reasonable assurance that listed equipment will be available to perform the services for City of Fairhope.

7. Debris Management Plan

- a. Prepare and discuss your firm's technical approach and debris management and response plan applicable for the scope of work.
- b. Include mobilization and response time, operation plan, work procedure, safety plan, and data processing procedures.
- c. List existing maintenance, repair, parts and resource programs, including availability of personnel, that would enable and ensure remedial work as may be required under the guarantee provided.

8. Subcontracting Plan

- a. Specify ability to place qualified minority/women/disadvantaged business enterprises.
- b. List all current small businesses which are committed to work with your firm and identify those classified as MBE/DBE/WBE
- c. Discuss your firm's commitment to comply with federal requirements concerning DBE participation.

9. References

- a. Include a minimum of three letters of references from past clients; include updated contact information.

10. Pricing:

- a. Complete Bid Response Form (Item XI)

11. Other Required Documents

Include Drug-Free Workplace Form, Anti-Collusion Affidavit, Anti-lobbying Affidavit, W-9 Immigration Act Compliance & E-Verify, and other documentation as necessary.

5.0 CRITERIA FOR EVALUATION AND AWARD

5.1 GENERAL

- 5.1.1 The successful Bidder will be selected based upon the best response offered to the City. Bidders may be requested to give an oral presentation after submission of responses, should the City find it necessary to determine which is the best received.

- 5.1.2 Submitted bids will be evaluated on contractor integrity, compliance with public policy, firm qualifications and experience, record of past performance, financial and technical resource availability, references and cost of services.

5.2 EVALUATION AND SELECTION

- 5.2.1 The Evaluation Committee will consider the following evaluation factors (of which cost is only one factor) of the received bids. The objective of the evaluation is to enter into a contract with the highest ranked company. Each category shall be weighted as follows, and one hundred (100) points are the maximum total number of points that can be awarded to a bid.

5.2.1.1 Past Performance – 20%

- 5.2.1.1.1 Provide list of firm's disaster debris removal projects completed within the past 10 years (include all projects within the State of Alabama) that are the same or larger to the magnitude for this RFP, including the public agency, their contact information, FEMA contacts, name of the project, and dollar value.
- 5.2.1.1.2 Disputes, Litigation and Resolution including: Past and Present litigation and disputes, Licenses Sanctions, Lost or Cancelled Accounts and Contract Denials.

5.2.1.2 Financial Capability – 20%

- 5.2.1.2.1 Financial Resources and Capabilities
- 5.2.1.2.2 Ability of prospective contractor to continue to proceed until funding becomes available
- 5.2.1.2.3 Previous financial handling of multiple contracts in multiple disasters
- 5.2.1.2.4 Invoicing program
- 5.2.1.2.5 History of satisfactory payment procedures of subcontractors

5.2.1.3 Qualifications of the Contractor and Staff – 15%

- 5.2.1.3.1 Number of years of experience in disaster response: company and/or predecessors must have at least 5 years of experience in this field; more preferred
- 5.2.1.3.2 Degree of experience in all areas of emergency response, management and recovery
- 5.2.1.3.3 Experience with FEMA reimbursement programs and funding issues
- 5.2.1.3.4 Proof of satisfactory or better performance on contracts of similar scope and size: references and letters of reference must verify successful completion of similar projects
- 5.2.1.3.5 Experience of key team members in area identified under experience of prospective contractor: identify senior and project management
- 5.2.1.3.6 Education and experience of prospective contractor personnel: provide brief resumes

5.2.1.4 Price Structure: Reasonableness of Service Fees – 20%

- 5.2.1.4.1 The primary method of cost evaluation will be based on the rates for vegetative debris removal, reductions, and hauling to a typical

disaster event. This shall utilize debris volumes based on experience with all major disasters.

5.2.1.5 Corporate Offices – 10%

5.2.1.5.1 Response and Mobilization Time/Access to the City by Key Contractor Staff/Equipment

5.2.1.6 Technical Approach – 5%

5.2.1.6.1 The explanation of the Proposer's approach to mobilization, operational plans, work procedures, and their processing system to support the needs and objectives of the City of Fairhope.

5.2.1.6.2 Proposer's existing maintenance, repair, parts and resource programs, including availability of personnel, that would enable and ensure remedial work as maybe required under the guarantee provided.

5.2.1.7 Equipment Inventory (Capability) – 5%

5.2.1.7.1 List types and quantities of company-owned disaster recovery equipment. Provide a statement of reasonable assurance that listed equipment will be available to perform the services for City of Fairhope.

5.2.1.7.2 Equipment owned vs. leased.

5.2.1.8 Subcontractor Placement: Certified M/WBE Firms – 5%

5.2.1.8.1 Specify ability to place qualified Minority/Women Owned Business Enterprises.

5.2.1.8.2 Provide letters of availability of M/WBE Subcontractors

ITEM XI BID RESPONSE FORM

Date: _____

Bid No. 020-18: Disaster Debris Removal and Disposal

FEDERAL PROCUREMENT STANDARDS: Contractor(s) are required to comply with all Federal procurement standards as applicable to Disaster Debris Removal and Disposal Services performed for the City of Fairhope and any other terms applicable in the bid Contract. Any changes or updates in these standards will be applicable to these services and Contract. Should the relevant Federal Agencies require changes remedies, changed conditions, access or records retention, or suspension of work then said conditions will be immediately incorporated into this Contract.

Base bid will include all labor, materials, equipment, shipping, overhead, profit, bonds, insurance and all other costs necessary to provide the complete services outlined within this contract and scope of work.

The owner agrees to provide the following materials: NONE

Bid Duration: One (1) year from signing date of Contract, with the option to extend bid or contract for up to two (2) additional years if terms and conditions, including pricing remain the same, and both parties are in agreement to extending the bid or contract.

Awarded vendor must be able to obtain a Performance Bond in the amount of 100% of the bid price regarding both labor / materials and performance at the time of activation.

List equipment and hourly rate to be used (on attached form)

List Personnel and hourly rate to be used (on attached form)

Detailed cost data of construction of inspection tower. Submit breakdown of labor and materials on a separate sheet.

BIDDING SCHEDULE FOR DEBRIS REMOVAL & DISPOSAL SERVICES

ITEM	DESCRIPTION OF SERVICE	COST	UNIT
1	Mobilization and Demobilization – include in CY Rate and shall not be a separate line item	XXXX	XXXXXX
2	Vegetative and C&D Debris Removal from Public Property (Right-of-Way) and Hauling to Temporary Debris Storage and Reduction Site (TDSRS) or other disposal sites (NOTE 1 & 6)		CY
3	Vegetative and C&D Debris Removal from Private Property (Right-of-Entry Program) and Publicly Owner Property (other than Right-of-Way) and hauled to TDSRS or other disposal sites (NOTE 1 & 6)		CY
4	Vegetative and C&D Debris Removal from Public Property (Right-of-Way) and Hauling Directly to Final Disposal Site (NOTES 1, 3 & 6)		CY
5	Vegetative and C&D Debris Removal from Temporary Debris Storage and Reduction Site (TDSRS) and Hauling to Final Disposal Site (NOTES 2, 3 & 7)		CY
6	Management of TDSRS (NOTE 4)		CY
7	Processing (Grinding/Chipping) of Vegetative Debris at TDSRS or Final Disposal		CY
8	Grinding or consolidation of C&D debris at TDSRS		CY
9	Processing (Open Burning) of Vegetative Debris at TDSRS or Final Disposal		CY
10	Processing Burning of Vegetative debris using air curtain incinerators at TDSRS or final disposal		CY
11	Pick Up and Haul of White Goods to Site within County		UNIT
12	Pick Up and Disposal of Hazardous Material		LB
13	Freon Management and Recycling		UNIT
14	Dead Animal Collection, Transportation and Disposal		LB
EXTRACTION OF HAZARDOUS STUMPS (50% OF ROOT BALL EXPOSED) RESULTING FROM TREES GROWING ON THE RIGHT OF WAY AND HAULING TO FINAL DISPOSAL SITE (NOTE 6)			
15	6-inch diameter to 11-inch diameter (based on stump conversion table)		CY
16	12-inch diameter to 24-inch diameter (Based on Stump Conversion Table)		CY
17	25-inch diameter to 47-inch diameter		STUM
18	48-inch diameter and greater		STUM
DEBRIS FROM LEANERS AND HANGERS WILL BE PILED ON RIGHT OF WAY AND WILL BE HAULED AND DISPOSED OF UNDER ITEMS 2-9			
19	Removal of hazardous hanging limbs greater than 2 inches		PER TREE
20	Removal of hazardous standing trees 6" – 12" in diameter		EACH
21	Removal of hazardous standing trees 13" – 24" in diameter		EACH
22	Removal of hazardous standing trees 25" – 36" in diameter		EACH
23	Removal of hazardous standing trees 37" – 48" in diameter		EACH
24	Removal of hazardous standing trees greater than 48" in diameter		EACH
MARINE DEBRIS REMOVAL			
25	Canals, bayous and ditches		PER LF
26	Bays and other open waters		PER ACRE
27	Boat removal		PER LF
THE FOLLOWING ITEMS SHALL BE BILLED ON A TIME AND MATERIAL BASIS ACCORDING TO THE ATTACHED SCHEDULES			
28	Emergency Road Clearance	See Equipment & Labor Rates	

29	Demolition of Structures (Debris will be hauled and disposed of under items 2-9)		SQ / FT
30	Disaster event Generated Hazardous Wastes Abatement; Biohazardous Wastes Abatement		N/A
31	Generators, light plants, water pumps, portable toilets, and other required equipment or materials		Cost Plus

Tipping fee at final disposal site(s) will be the responsibility of the City (see #3 in notes below)

ADDITIONAL EQUIPMENT AND PERSONNEL CONSIDERATIONS:

1. All equipment descriptions will be in accordance with the FEMA "typed resources definitions"
2. All equipment rates include the cost of the operator, fuel, and maintenance unless otherwise noted
3. All labor rates include the applicable personal protective equipment such as hard hats, safety, shoes, gloves, safety glasses / shield, hearing protection, and traffic safety vests
4. Additional equipment and personnel are to be available to meet any and all possible requirements

DEBRIS REMOVAL, PROCESSING, AND DISPOSAL

NOTES

1. This price assumes that TSDRS's final disposal site or other approved disposal sites are within 30 miles. For distances over 30 miles add _____ per cubic yard per mile.
2. This price assumes final disposal is within 30 miles of TSDRS. For distances over 30 miles add _____ per cubic yard per mile.
3. The Contractor will pay tipping fee at final disposal site(s) and back charge City at cost.
4. Includes management of site remediation.
5. All stumps placed on the right of way by citizens over 24" will be converted to cubic yards per the attached FEMA Stump Conversion Chart and charged as regular debris under items 2-7.
6. Invoices to be based on incoming load tickets.
7. Invoices to be based on outgoing load tickets.

STUMP CONVERSION TABLE DIAMETER TO VOLUME CAPACITY

The qualification of the cubic yards of debris for each size of stump is the following table was derived from FEMA field studies conducted throughout the State of Florida during the debris removal operations following Hurricane Charley, Frances, Ivan and Jeanne. The following formula is used to derive cubic yards.

$$\frac{[(\text{Stump Diameter}^2 \times 0.7854) \times \text{Stump Length}] + [(\text{Root ball Diameter}^2 \times 0.7854) \times \text{Root Ball Height}]}{46656}$$

0.7854 is one-fourth Pi and is a constant.

46656 is used to convert inches to Cubic Yards and is a constant.

The formula used to calculate the cubic yardage used the following factors, based upon findings in the field:

- Stump diameter measured two feet up from ground
- Stump diameter to root ball diameter ratio of 1:3:6
- Root ball height of 31"

CONT'D

Stump Diameter (inches)	Cubic Yards	Stump Diameter (inches)	Cubic Yards
6	0.3	46	15.2
7	0.4	47	15.8
8	0.5	48	16.5
9	0.6	49	17.2
10	0.7	50	17.9
11	0.9	51	18.6
12	1	52	19.4
13	1.2	53	20.1
14	1.4	54	20.9
15	1.6	55	21.7
16	1.8	56	22.5
17	2.1	57	23.3
18	2.3	58	24.1
19	2.6	59	24.9
20	2.9	60	25.8
21	3.2	61	26.7
22	3.5	62	27.6
23	3.8	63	28.4
24	4.1	64	29.4
25	4.5	65	30.3
26	4.8	66	31.2
27	5.2	67	32.2
28	5.6	68	33.1
29	6	69	34.1
30	6.5	70	35.1
31	6.9	71	36.1
32	7.3	72	37.2
33	7.8	73	38.2
34	8.3	74	39.2
35	8.8	75	40.3
36	9.3	76	41.4
37	9.8	77	42.5
38	10.3	78	43.6
39	10.9	79	44.7
40	11.5	80	45.9
41	12	81	47
42	12.6	82	48.2
43	13.3	83	49.4
44	13.9	84	50.6
45	14.5		

EQUIPMENT RATES

Equipment Description	Unit	Unit Price
JD 544 Wheel Loader with debris grapple	Hour	
JD 644 Wheel Loader with debris grapple	Hour	
Extendaboom Forklift with debris grapple	Hour	
753 Bobcat Skid Steer Loader with debris grapple	Hour	
753 Bobcat Skid Steer Loader with bucket	Hour	
753 Bobcat Skid Steer Loader with street Sweeper	Hour	
30-50 HP Farm Tractor with box blade or rake	Hour	
2-2 ½ Cu.Yd. Articulated Loader with bucket	Hour	
3-4 Cu.Yd. Articulated Loader with bucket	Hour	
JD 648E Log Skidder or equivalent	Hour	
CAT D4 Dozer	Hour	
CAT D6 Dozer	Hour	
CAT D8 Dozer	Hour	
CAT 125 – 140 HP Motor Grader	Hour	
JD 690 Trackhoe with debris grapple	Hour	
JD 690 Trackhoe with bucket & thumb	Hour	
Rubber Tired Trackhoe with debris grapple	Hour	
JD 310 Rubber Tired Backhoe with bucket and hoe	Hour	
Rubber Tired Excavator with debris grapple	Hour	
210 Prentiss Knuckleboom with debris grapple	Hour	
Self-Loader Scraper Cat 623 or equivalent	Hour	
Hand Fed Debris Chipper	Hour	
300 – 400 Tub Grinder	Hour	
800 – 1,000 HP Diamond Z Tub Grinder	Hour	
30 Ton Crane	Hour	
50 Ton Crane	Hour	
100 Ton Crane (8-hour minimum)	Hour	
40-60' Bucket Truck	Hour	
Service Truck	Hour	
Water Truck	Hour	
Portable Light Plant	Hour	
Equipment Transports	Hour	
Pickup Truck, Unmanned	Hour	
Self-loading Dump Truck with Knuckleboom and debris grapple	Hour	
Single Axle Dump Truck, 5 – 12 Cu.Yd.	Hour	
Tandem Dump Truck, 16 - 20 Cu.Yd.	Hour	
Trailer Dump, 24 – 40 Cu.Yd.	Hour	
Trailer Dump Truck, 61 – 80 Cu.Yd.	Hour	
Power Screen	Hour	
Stacking Conveyor	Hour	
Off Road Trucks	Hour	

LABOR AND MATERIAL RATES

Personnel Description	Unit	Unit Price
Operations Manager	Hour	
Superintendent with truck, phone & radio	Hour	
Foreman with truck, phone & radio	Hour	
Safety/Quality Control Inspector with vehicle, phone & radio	Hour	
Inspector with vehicle, phone & radio	Hour	
Climber with gear	Hour	
Saw Hand with chainsaw	Hour	
Laborers & Flagmen	Hour	
Public Assistance Manager	Hour	
Documentation Clerk	Hour	
Timekeeper	Hour	
HazMat Professional	Hour	
Household HazMat Inspection & Removal Crew	Hour	

Material Description	Unit	Unit Price
Fill Dirt for Stump Holes – Purchased, Placed, and Shaped	CY	

NOTES

1. The equipment, labor, and material rates show above are tasks requested by the City which are not covered in the rates (per cubic yard) for normal debris removal and reduction.
2. Pricing includes operator, fuel, and maintenance. Depending on the severity of the disaster, some or all of the above equipment will be required. Contractor will ensure sufficient numbers, or each type of listed equipment are available to meet the needs for a particular disaster.
3. The listed equipment should cover all possible equipment needs following disaster. Contractor has access and contacts for any other equipment that might be required and will negotiate a rate with the City if need arises for equipment not on list.

Receipt of the following Addenda to these documents is hereby acknowledged by the undersigned (bidder to complete below):

<u>ADDENDUM NO.</u>	<u>DATE ISSUED</u>	<u>ADDENDUM NO.</u>	<u>DATE ISSUED</u>
_____	_____	_____	_____
_____	_____	_____	_____

Each proposal must give the full business address of the proposer and must be signed by him / her with his / her usual signature. Proposals by partnerships must furnish the full names of all partners and must be signed with the partnership name by one of the members of the partnership, or by an authorized representative, followed by the signature and designation of the person signing. Proposals by Corporations must be signed with the legal name of the corporation followed by the name of the State of Incorporation and by the signature and designation of the President, secretary, or other person authorized to bind it in the matter. The name of each person shall also be typed or printed below the signature. A proposal by a person who affixes to this signature the word “president”, “secretary”, “agent” or other designation without disclosing his principal, may be held to be the proposer of the individual signing. When requested by the City of Fairhope, Baldwin County, Alabama, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.

The undersigned agrees to furnish the goods/services as requested by you for the City of Fairhope, Baldwin County, Alabama in your Request for Proposal, and certifies that they will meet or exceed the specifications

called for. The undersigned has read all information pertaining to this bid and has resolved all questions. It is also understood and agreed that all prices quoted are F.O.B. as described in the bid documents and specifications. The undersigned also affirms he/she has not been in any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price or to refrain from bidding or otherwise.

Section 41-16-5, Code of Alabama 1975, requires that public contracts over \$15,000 include the following language:

By signing this Contract, _____ represents and agrees that it
COMPANY NAME
is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with
a jurisdiction with which the State of Alabama can enjoy open trade

WITNESS our hands this _____ day of _____, 2018.

IF INDIVIDUAL

_____, DBA, _____
SIGNATURE of Individual Bidder Business Name

Address

Address

City, State, Zip Code

Phone Number

Fax Number

Primary E-mail Address

AL General Contractor License No. (Attach Copy if Required)

AL General Contractor License Major Categories (As Required)

AL General Contractor Specialties (As Required)

AL Foreign Corporation Entity ID (Required of Out of State Vendors)

IF CORPORATION, PARTNERSHIP, OR JOINT VENTURE

Name of Corporation, Partnership, or Joint Venture

State of Incorporation

Company Representative

Print Name of Representative Authorized to Sign
Contracts for the firm

Position or Title

Signature of Representative Authorized to Sign
Contracts for the firm

Print Name(s) of Others if a Partnership

Address

Address

City, State, Zip Code

Phone Number

Fax Number

Primary E-mail Address

AL General Contractor License No. (Attach Copy if Required)

AL General Contractor License Major Categories (As Required)

AL General Contractor Specialties (As Required)

AL Foreign Corporation Entity ID (Required of Out of State Vendors)

NOTARY FOR INDIVIDUAL, PARTNERSHIP, CORPORATION, OR LLC

STATE OF _____ }
COUNTY OF _____ }

I, the undersigned authority in and for said State and County, hereby certify that _____
Name of Bid Signer

As _____ respectively of _____
Title Company Name

Whose name is signed in the foregoing document and who is known to me, acknowledged before me on this day,
being informed of the contents of the document they executed the same voluntarily on the day the same bears
date.

Given under my hand and Notary Seal on this _____ day of _____, 2018

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

Business Organization

Name of Bidder (exactly as it appears on W-9): _____

Doing-Business-As Name of Bidder: _____

Principal Office Address: _____

Form of Business Entity [check one ("X")]

Corporation _____

Partnership _____

Individual _____

Joint Venture _____

Other (describe): _____

Corporation Statement

If a corporation, answer the following:

Date of incorporation: _____

Location of incorporation: _____

The Corporation is held:

Publicly _____

Privately _____

Partnership Statement

If a partnership, answer the following:

Date of organization: _____

Location of organization: _____

The Corporation is held:

General _____

Limited _____

Joint Venture Statement

If a Joint Venture, answer the following:

Date of organization: _____

Location of organization: _____

JV Agreement Recorded:

Yes _____

No _____

Primary Contact _____

Title: _____

Telephone Number: _____ Fax Number: _____

Email Address _____

BID CHECKLIST

- ☐ Past experience setting up, managing, and operating a disaster debris reduction site
- ☐ Certificates of insurance as required in ITEM VII of ITB
- ☐ Copy of State of Alabama Contractor's License
- ☐ Tab all required documents and label with corresponding number listed under ITEM VIII – Section 4.0 Submission Requirements
- ☐ The cost of this tower MUST be absorbed in the overall unit cost – DO NOT list this cost separately
- ☐ The cost of Mobilization / Demobilization MUST be absorbed in the overall unit cost – DO NOT list this cost separately
- ☐ Please make a notation if your company will have personnel stationed at Fairhope's Emergency location (currently at Public Works Maintenance Facility) during the anticipated storm
- ☐ Proof of enrollment in E-Verify for Immigration Law Compliance is required from the awarded bidder
- ☐ Drug-Free Workplace Form
- ☐ Anti-Collusion Affidavit
- ☐ Anti-Lobbying Affidavit
- ☐ W-9

CERTIFICATIONS AND REPRESENTATIONS

(CONTRACT FUNDS)

1. BYRD ANTI-LOBBYING AMENDMENT COMPLIANCE AND CERTIFICATION

For all orders above the limit prescribed in FAR Section 52.203-12(g), or its successor regulation (currently \$150,000), the Offeror must complete and sign the following:

The following certification and disclosure regarding payments to influence certain federal transactions are made per the provisions contained in FAR 52.203-11 and 52.203-12 and 31 U.S.C. 1352, the "Byrd Anti-Lobbying Amendment."

(a) FAR 52.203-12, "Limitation on Payments to Influence Certain Federal Transactions" is hereby incorporated by reference into this certification

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 shall certify and disclose accordingly.

(c) This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person making an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

SIGNATURE: _____

COMPANY NAME: _____

DATE: _____

2. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (FIRST TIER SUBCONTRACTOR)

For all orders above the limit specified in FAR Section 52.209-6(e) (currently \$30,000) and in accordance with the requirements of FAR 52.209-6, the Offeror must complete and sign the following:

The Offeror certifies, to the best of its knowledge and belief, that--

The Offeror and/or any of its Principals--

Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

The Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

"Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

The Offeror shall provide immediate written notice to the University if, at any time prior to subcontract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the University may render the Offeror nonresponsible.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the University, the University may terminate the contract resulting from this solicitation for default.

SIGNATURE: _____

COMPANY NAME: _____

DATE: _____

NOTARY

STATE OF _____ }

COUNTY OF _____ }

Given under my hand and Notary Seal on this _____ day of _____, 2018

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

ITEM X
CITY OF FAIRHOPE
STANDARD TERMS & CONDITIONS

1. ACCEPTANCE OF AGREEMENT

This Agreement contains all terms and conditions agreed upon by the OWNER and Winning bidder. No other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either party hereto. The Winning Bidder shall not employ Subcontractors without the express written permission of the OWNER. No waiver, alteration, consent or modification of any of the provisions of the Agreement shall be binding unless in writing and signed by the OWNER and CONTRACTOR. This Agreement shall not be construed against the party or parties preparing it. It shall be construed as if all the parties and each of them jointly prepared this Agreement, and any uncertainty or ambiguity shall not be interpreted against one or more parties.

2. ACCEPTANCE OF WORK

The City of Fairhope will be deemed to have accepted the Work after the City of Fairhope agrees the Work is completed by signature on delivery or service tickets. In the event Work furnished under the Contract / Agreement / Purchase Order is found to be defective or does not conform to the intent of the Contract / Agreement / Purchase Order, the awarded vendor shall, after receipt of notice from the City of Fairhope, correct the deficiencies. Failure on the part of the awarded vendor to properly correct the deficiencies within the time period allowed will constitute the City of Fairhope's right to cancel the Contract / Agreement / Purchase Order immediately, upon written notice to the awarded vendor.

3. ADDENDA

All Addenda are part of the Contract Documents. Include resultant costs in the Bid. Addenda will be issued by email to all Bidders on record and posted to the City of Fairhope website. It is the responsibility of the bidder to verify that all addenda have been received, and to include all signed addenda in the bid submission

4. ADDITIONAL ORDERS

Unless it is specifically stated to the contrary in the bid response, the City of Fairhope reserves the option to place additional orders against a contract awarded as a result of this solicitation at the same terms and conditions; to extend the renewal date until a new bid is in place, if it is mutually agreeable.

5. APPLICABLE LAW

This Agreement is deemed to be under and shall be governed by and construed according to the laws of the State of Alabama. Any litigation arising out of the Agreement shall be heard in the Courts of Baldwin County, Alabama.

6. ASSIGNMENT

The awarded vendor shall not assign the Contract / Agreement /Purchase Order or sublet it as a whole without the

express written permission of the City of Fairhope. The awarded vendor shall not assign any payment due them hereunder, without the express written permission of City of Fairhope. The City of Fairhope may assign the Contract / Agreement / Purchase Order, or sublet it as a whole, without the consent of the awarded vendor.

7. ASSURANCE OF NON-CONVICTION OF BRIBERY

The bidder hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners and none of its employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery or conspiracy to bribe under the laws of any state or Federal government.

8. AWARD CONSIDERATION

The following factors will be considered in determining the lowest **responsible** bidder: Overall quality, Conformity with specifications both general and specific, Purposes for which materials or services are required, Delivery dates and time required for delivery, Unit acquisition cost, financial ability to meet the contract, previous performance, facilities and equipment, availability of repair parts, experience, delivery promise, terms of payments, compatibility as required, other costs, and other objective and accountable factors which are reasonable.

9. AWARD OR REJECTION OF BIDS

The Bid will be awarded to the lowest responsible bidder complying with conditions of the invitation for bids, provided his bid is reasonable and it is in the interest of the City of Fairhope to accept it. The bidder to whom the award is made will be notified at the earliest possible date. The City of Fairhope, however, reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in the interest to the City of Fairhope.

10. BACK ORDERS

If it is necessary to back order any items, the vendor must notify the Purchasing Department and advise as to the expected shipping or delivery date. If this date is not acceptable, the City of Fairhope may seek remedies for default.

11. BID AND PERFORMANCE SECURITY

If bid security is required, a bid bond or cashier's check in the amount indicated on the bid cover must accompany the bid and be made payable to The City of Fairhope of Baldwin County, Al. Corporate or certified checks are not acceptable. Bonds must be in a form satisfactory to the City and underwritten by a company licensed to issue bonds in the State of Alabama. If bid security fails to accompany the bid, it shall be deemed unresponsive, unless the Purchasing Manager deems the failure to be non-substantial. All checks will be returned to the bidders after the contract has been approved. If a performance bond is required, the successful

bidder will be notified after the awarding of the contract.

12. BRAND NAMES

Reference to brand names and numbers is descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the standards of quality thereby indicated will be considered, providing the bid clearly describes the article offered and indicates how it differs from the referenced brands. Descriptive literature or manufacturers specifications plus any supplemental information necessary for comparison purposes should be submitted with the bid or the bid on that item may be rejected. Reference to literature submitted with a previous bid or on file with the Division of Purchasing will not satisfy this requirement. The burden is on the bidder to demonstrate that the item bid is equivalent to the item specified in the ITB. Bids without sufficient documentation to fully support equality, may be considered non-responsive. Reference by the City of Fairhope in the ITB to available existing specifications shall be sufficient to make the terms of such specifications binding on the bidder. Unless the bidder specifies otherwise in its bid, it is understood the bidder is offering a referenced brand item as specified in the ITB or is bidding as specified when no brand is referenced. Failure to examine drawings, specifications and instructions will be at the bidder's risk.

13. BUSINESS LICENSE

The vendor selected to enter into a Contract / Agreement with the City of Fairhope must be licensed to do business in the City of Fairhope prior to commencement of any work under the contract. Delivery of goods or services to the City of Fairhope by Purchase Order have detailed and varied Business License requirements. In all instances that require a business license. Awarded vendor will provide proof of possessing a current City of Fairhope Business License. Prospective bidders will not be required to possess a City of Fairhope Business License prior to award.

14. CANCELLATION OF / CONTRACT / AGREEMENT / PURCHASE ORDER / LEASE

A purchase order can be canceled in whole or in part when awarded vendor fails to deliver or perform as specified. Cancellation of a purchase order can only be made by a written purchase order change (POC) from the City of Fairhope. A term contract, lease or agreement can be canceled by the City of Fairhope, for justifiable cause, or convenience, by written notice.

15. CERTIFICATION PURSUANT TO ACT NO. 2006-557

Alabama law (section 41-4-116, code of Alabama 1975) provides that every bid submitted, and contract executed shall contain a certification that the vendor, CONTRACTOR, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting, and remitting Alabama state and local sales, use, and/or lease tax on all taxable sales and leases into Alabama. By submitting this bid, the bidder is hereby certifying that they are in full compliance with act no. 2006-557, they are not barred from bidding or entering into a contract pursuant to 41-4-116, and acknowledges that the awarding authority may declare the contract void if the certification is false. All corporations must register to do business in Alabama with the

Office of the Secretary of State. Their address is:

Office of the Secretary of State

P.O. Box 5616
Montgomery, AL 36103
(334) 242-5324
Fax: (334) 240-3138
<http://www.sos.state.al.us/index.aspx>

The Foreign Corporation form is online at
<http://www.sos.state.al.us/downloads/dl1.cfm>.

16. COST OF REMEDYING DEFECTS

All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the awarded vendor.

17. DELIVERY OF BID

Bids must be received in the Purchasing Office by the date and time specified on the bid cover. All bids will be accepted until the time and date stated on the bid cover. No bids will be accepted that extend past the time and date on the bid cover. The time of receipt shall be determined by the time clock stamp in the Purchasing Department. Bids submitted by U.S. Mail must be received by the City of Fairhope of Baldwin County, Alabama, in the City of Fairhope offices, 555 South Section St., Fairhope, AL., unless otherwise specified.

18. DELIVERY

The number of calendar days required for delivery after receipt of a purchase order shall be stated in the RFQ / ITB / RFP and /or Purchase Orders. When no time is stated in the document, the time shall be fourteen (14) calendar days after receipt of order. If a shipment is not made within the time period specified, the Purchase Order may be canceled.

19. ENVIRONMENTAL REQUIREMENTS

All products will be clearly labeled for their intended use. Each delivery of product or materials will include a Material Safety Data Sheet (MSDS) for all materials that require an MSDS. All manufacturers/distributors of hazardous substances, including any of the items listed on this bid/quote/ contract and subsequent award must include completed material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

- a) The identity of the hazardous material,
- b) Appropriate hazard warnings, and manufacturer, importer, or other responsible party.

20. EQUIPMENT DEMONSTRATION

The City of Fairhope may require equipment/ product materials or service techniques to be demonstrated at a time, date and location to be specified by the City of Fairhope.

21. EQUIPMENT ELECTRICAL CERTIFICATION

All electrical equipment purchased shall conform to, and be identified in, the applicable standard(s), or otherwise be certified as applicable, as of the bid opening date and time, by Underwriters Laboratories, Inc. or other recognized laboratory

facility. Bidder must provide satisfactory documentation with returned bid that all such equipment meets the applicable product standard or has otherwise been certified as outlined above. Unless indicated in the bid document, the above certification shall apply to the equipment itself, not the individual components of that equipment.

22. ERRORS IN BID

Bidders are assumed to be informed regarding conditions, requirements and specifications prior to submitting bids. Failure to do so will be at the bidder's risk. Bids already submitted may be withdrawn without penalty prior to bid opening. Errors discovered after the bid opening may not be corrected.

23. FORCE MAJEURE

Neither the City nor the awarded vendor shall be deemed in breach of any contract / Purchase Order or Agreement which may result from this proposal submission if it is prevented from performing any of the obligations hereunder by reason of Acts of God, acts of the public enemy, acts of superior governmental authority, strikes or labor disputes, floods, riots, rebellion, sabotage, or any similar other unforeseeable causes beyond its control and not due to its fault or negligence. Each party shall notify the other immediately in writing of the cause of such after the beginning period thereof. The awarded vendor may request cancellation and the City of Fairhope may grant the request if performance is prevented by any of the above referenced causes, or other unavoidable circumstances not attributable to the fault or negligence of the vendor. The burden of proof for such relief rests with the vendor. All correspondence pertaining to cancellation of a purchase order or term contract must be addressed to the City of Fairhope Purchasing Manager.

24. HAZARDOUS AND TOXIC SUBSTANCES

Bidder must comply with all applicable Federal, State, County and City laws, ordinances and regulations relating to hazardous and toxic substances, including such laws, ordinances and regulations pertaining to information hazardous and toxic substances, and as amended from time to time. Bidder shall provide the City of Fairhope with a "Material Safety Data Sheet" for all goods that carry one.

25. INDEMNITY

Indemnity: The awarded vendor hereby agrees to indemnify and save harmless the City of Fairhope, its officers, agent, and employees, from and against any and all liabilities, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including reasonable attorney's fees for trial and on appeal, of any kind and nature, arising or growing out of, or in any way connected with the performance of this Contract / Agreement / Purchase Order, to the extent caused by a negligent act or omission of the awarded vendor, their agents, servants, employees, Sub-contractors, or others associated with the awarded vendor. The awarded vendor shall be responsible for damage to any equipment excluded from this agreement, or damage or injury caused by any equipment excluded from this agreement, only to the extent that the damage or injury is caused by a negligent act or omission of the awarded vendor, or caused by failure of the awarded vendor's supplied product to perform as specified.

26. INSPECTION

All materials, workmanship, equipment, and supplies are subject to inspection and test at any source or time. Final inspection, acceptance or rejection will be made at delivery destination. Goods that do not meet specifications will be rejected unless substitutions have been approved by the City of Fairhope. Failure to inspect or to reject upon receipt, however, does not relieve the awarded vendor of liability. When subsequent tests, after receipt, are conducted and when such tests reveal a failure to meet specifications, the City of Fairhope will reject the goods and the awarded vendor shall immediately supply goods meeting specifications or the City of Fairhope may seek damages including but not limited to the testing expense, regardless of whether a part of or all of the goods have been consumed through the testing process. Rejected goods shall be removed by the awarded vendor promptly after rejection, at his expense. If not removed in fourteen (14) calendar days, they may be disposed of at the discretion of the City of Fairhope. Disposal costs will be the awarded vendor's responsibility.

27. INSPECTION OF PREMISES

At reasonable times, the City may inspect those areas of the awarded vendor's place of business that are related to the performance of a Contract / Agreement / Purchase Order. If the City makes such an inspection, the awarded vendor must provide reasonable assistance. The City of Fairhope reserves the right on demand and without notice all the vendor's files associated with a subsequent Contract / Agreement / Purchase Order where payments are based on the awarded vendor's record of time, salaries, materials, or actual expenses. This same clause will apply to any sub-contractors assigned to the Contract / Agreement / Purchase Order.

28. INSURANCE

If a Contract / Agreement / Purchase Order results from this RFQ / ITB / RFP, or other form of solicitation, the awarded vendor shall maintain such insurance as will indemnify and hold harmless the City of Fairhope from Workmen's Compensation and Public Liability claims from property damage and personal injury, including death, which may arise from the awarded vendor's operations under this Contract / Agreement / Purchase Order, or by anyone directly or indirectly employed by him/her.

29. INVITATION TO BID

Any provisions made in the RFQ / ITB / RFP, or other form of solicitation, supersedes any provisions outlined here in the General Terms and Conditions.

30. INVOICING, DELIVERY, PACKAGING

Invoices shall be prepared only after ordered materials have been delivered. All invoices must show the purchase order number. Unless otherwise specified in writing, vendors shall not ship any material without an authorized Purchase Order from the City of Fairhope Purchasing Department. All packages delivered must show the purchase order number. The awarded vendor will be required to furnish all materials, equipment and/or service called for at the bid price quoted. In the event the awarded vendor fails to

deliver within a reasonable period of time, as determined by the City of Fairhope, the right is reserved to cancel the award and subsequent purchase order and purchase from the next lowest responsible bidder the items needed. The original awarded vendor will be back charged the difference between the original contract price and the price the City of Fairhope has to pay as a result of the failure to perform by the original awarded vendor. All bids will remain firm for acceptance for 60 days from the date of bid opening. Prices shall be net F.O.B., Prepaid and Allow, City of Fairhope chosen site, Baldwin County, Al. The title and risk of loss of the goods will not pass to the City of Fairhope until receipt and acceptance takes place at the F.O.B. point.

31. LABELING

Individual shipping cartons shall be labeled with the name "City of Fairhope", Purchase Order Number, and where applicable, Contract Number, date of manufacture, batch number, storage requirements, conditions, and recommended shelf life. Bidders are encouraged to offer product packaging with recycled content.

32. LOSS OR DAMAGE IN TRANSIT

Delivery by a vendor to a common carrier does not constitute delivery to the City of Fairhope. Any claim for loss or damage incurred during delivery shall be between the vendor and the carrier. The City of Fairhope accepts title only after satisfactory receipt at the delivery point. The City of Fairhope shall note all visible damages on the freight bill and may refuse the damaged goods. The vendor shall make immediate replacement of the damaged merchandise or be subject to damages for breach of contract. If damage is to a small portion of a total shipment and the City of Fairhope will not be inconvenienced because of the shortage, the vendor may be permitted by the Purchasing Manager to deduct the amount of damage or loss from its invoice, in lieu of replacement. Risk of loss during delivery is borne by the vendor until the goods have been accepted by the City of Fairhope, unless otherwise specified in the RFQ / ITB / RFP or other form of solicitation.

33. MANDATORY SITE VISIT

If the RFQ / ITB / RFP or other form of solicitation requires a mandatory site visit, bidders must inspect the site where installation or service is to take place to obtain a full understanding of scope of work outlined therein. Date of site visit will be determined by the City of Fairhope.

34 MONITORING OF SERVICES

Performance of services will be monitored by the requisitioning department and/or the Purchasing Department, and evaluation reports may be filed with the Purchasing Department. Performance not meeting specifications will result in cancellation of Contract / Agreement / Purchase Order and may result in vendor being removed from the vendor list.

35. NON-CONFORMING MERCHANDISE

When merchandise received from the lowest responsible bidder is not in accordance with the purchase order, it will be returned to the bidder, at bidder's expense.

36. NON-DESCRIMINATION

The City of Fairhope is an Equal Opportunity Employer and requires that all CONTRACTORS comply with the Equal Employment Opportunity laws and the provisions of the Contract / Agreement / Purchase Order documents in this regard. The City also encourages and supports the utilization of Minority Business Enterprises on this and all public bids.

37. NON-EXCLUSIVE

Unless otherwise specified, this Contract / Agreement / Purchase Order is considered a non-exclusive Contract / Agreement / Purchase Order between the parties.

38. NOTIFICATION AND ACCIDENT REPORTS

In the event of accidents of any kind, in the performance of a Contract / Agreement / Purchase Order, the awarded vendor shall notify the City of Fairhope immediately and furnish, without delay, copies of all such accident reports to the City of Fairhope. If in the performance of their Work, the awarded vendor fails to immediately report an accident to the City of Fairhope, of which the awarded vendor has knowledge of and which results in a fine levied against the City of Fairhope then the awarded vendor shall be responsible for all fines levied against the City of Fairhope.

39. PACKAGING

All goods must be packaged in new packing containers. Packing that meets the requirements of common carriers is acceptable, unless otherwise required. A packing slip or invoice must accompany all shipments and must reference the purchase order number. Unless otherwise specified, goods are to be packaged in cartons meeting federal specifications and shipped on non-returnable pallets.

40. PATENTS

Awarded Vendor guarantees that the sale and / or use of goods will not infringe upon any U.S. or foreign patent. Awarded vendor will at his / her own expense, indemnify, protect and save harmless the City of Fairhope, on any patent claims arising from the purchase of goods or services.

41. PAYMENT

Invoices -- Upon completion of service and delivery of materials specified in the applicable purchase order, awarded vendor will submit an invoice and signed delivery ticket to:

City of Fairhope
Accounts Payable Department
P.O. Box 429
Fairhope, Al. 36533
ap@fairhopeal.gov

All invoices must reference appropriate Purchase Order Numbers
Payment of Invoice: All invoices received by the City of Fairhope are payable within thirty (30) days from the date of receipt by the City of Fairhope, provided they are approved by the City of Fairhope.

42. PAYMENT WITHHELD

Payment may be withheld until all items have been delivered and all requirements of the Contract / Agreement / Purchase Order have been fulfilled

43. PRODUCT TESTING

Vendor shall incur all cost involved in obtaining an Independent Laboratory Test if the City deems necessary during the term of the Contract / Agreement / Purchase Order. The City of Fairhope reserves the right to request a demonstration of any and all items bid before making the award.

44. PERMITS LICENSES AND CERTIFICATES

The awarded vendor is to procure all permits, licenses, and certificates, or any approvals of plans or specifications as may be required by Federal, State, Local Laws, ordinances, rules, and regulations, for the proper execution and completion of Work covered under the Contract / Agreement / Purchase Order.

45. PREPARATION OF BID

All bids / proposals shall be typewritten or in ink on the form(s) prepared by the City of Fairhope. Bids / proposals prepared in pencil will not be accepted. All bids / proposals must be signed by officials of the corporation or company duly authorized to sign bids / proposals. Any bid / proposal submitted without being signed will automatically be rejected. All corrections or erasures shall be initialed and dated by the person authorized to sign quotations /bids / proposals. If there are discrepancies between unit prices quoted and extensions, the unit price will prevail.

46. QUESTIONS / CONTACT

Commencing with the issuance of the RFQ / ITB / RFP, or other form of solicitation, no vendor or anyone acting on a vendor's behalf, shall make direct or indirect contact with City personnel or undertake any activities or take any action to otherwise promote its quotation / bid / proposal to the City or its personnel. All communications shall be made to the contact identified in the quotation / bid / proposal documents. Violation of this requirement may, at the City's sole and absolute discretion, be grounds for disqualifying a vendor from further consideration.

47. RECEIPT BY CITY OF FAIRHOPE

If not otherwise stated in the order, the City of Fairhope will be said to have received goods when they have been delivered, unloaded and placed on the agency's dock or if there is no dock, inside an accessible building, and signed for by an authorized City employee. Shipments will be checked against the receiving copy of the Purchase Order. If the purchase order requires grading certificates, USDA Stamps, or any proof of quality, such proof must accompany the shipment.

48. REJECTION OF BIDS

The City of Fairhope reserves the right to accept or reject any or all bids in whole or in part for any reason, to waive technicalities or informalities, or to advertise for new proposals, if, in the judgment of the awarding authority, the best interest of the City of Fairhope will be promoted thereby. Bidders may be disqualified and rejection of proposals may be recommended for any of (but not limited to) the

following causes: Failure to use the bid forms furnished by the City of Fairhope, Lack of signature by an authorized representative on the bid form, Failure to properly complete the bid form and vendor compliance, Evidence of collusion among bidders, unauthorized alteration of the bid form.

50. RIGHT TO AUDIT

The awarded vendor shall maintain documentation of all work performed. The awarded vendor shall make any and all documentation available to the City of Fairhope at all reasonable times, for inspections and audit by the City of Fairhope, during the entire term of the Contract / Agreement / Purchase Order and for a period of Three (3) years after expiration of the Contract / Agreement / Purchase Order.

51. SAMPLES

Bidders will not be required to furnish samples at the time of bid opening, unless specifically called for. The City of Fairhope reserves the right to request samples after bid opening to assist in the evaluation of proposals submitted.

52. SAFETY MEASURES

The awarded vendor shall take all necessary precautions for the safety of the City of Fairhope's and awarded vendor's employees at the Work site, and shall erect and properly maintain at all times, all necessary safeguards for the protection of the workmen and the public. The awarded vendor shall post signs warning against hazards in and around the Work site.

53. SET-UP AND INSTALLATION

Unless otherwise specified, bid / quotation to include cost of all uncrating, disposal of shipping materials, set-up, testing and initial instruction to agency personnel.

54. SPILL CLEAN UP

The awarded vendor shall be responsible for spillage caused by their negligence, which occurs during transit or unloading operations. The awarded vendor shall immediately report and clean up any spillage. Upon failure to do so, the awarded vendor shall remain responsible for all actual related costs

55. SUBSTITUTIONS

Substitutions on a purchase order shall require the approval of the Originating Buyer. The City of Fairhope reserves the right to reject at destination and hold at the vendor's risk and expense any goods supplied by the vendor which do not conform to the specification or description embodied in the order or are inferior in any respect to the good specified. Any good bought by sample which is inferior in quality to the sample submitted by vendor will be rejected. Any goods delivered that do not meet specifications may be returned to the vendor at its expense. When a good is returned, the vendor must make immediate replacement with acceptable merchandise or the City of Fairhope may seek remedies for default.

56. TABULATION

Bid results are posted on The City of Fairhope's web site: www.fairhopeal.gov. The awarded vendor will be sent a written notification via mail.

57. TAXES

Prices quoted shall be delivered prices, exclusive of all federal or state excise, sales, and manufacturer's taxes. The City will assume no transportation or handling charges other than specified in the RFQ, ITB, RFP or other form of solicitation. The City is tax exempt by law – Code of Alabama 1975.

58. TERMINATION FOR CONVENIENCE

Any Contract / Agreement / Purchase Order may be terminated for convenience by the City of Fairhope, in whole or in part, by written notification to the awarded vendor.

59. TERMINATION FOR DEFAULT

Performance of Work under the Contract / Agreement / Purchase Order Agreement may be terminated by the City of Fairhope, in whole or in part, in writing, whenever the City of Fairhope determines that the awarded vendor has failed to meet the requirements of the Contract / Agreement / Purchase Order.

60. TERMINATION FOR NON-APPROPRIATION

Termination for Non-appropriation – The continuation of any financial obligation beyond the current fiscal year is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the local source, State Legislature and/or federal sources. The City of Fairhope may terminate any financial obligation, and awarded vendor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the City of Fairhope's funding from local, State and/or federal sources is not appropriated, withdrawn or limited.

61. TIME IS OF THE ESSENCE

The City of Fairhope and awarded vendor agree that time is of the essence in the performance of work called for under this Contract / Agreement / Purchase Order. The awarded vendor agrees that all work will be accomplished regularly, diligently and uninterrupted at such a rate of progress as will ensure full completion thereof within reasonable time periods.

62. TITLE

All titles, fees, as well as other charges, are to be paid by awarded vendor. Awarded vendor is to furnish prepaid certificate of title in the name of the City of Fairhope, Title shall change upon acceptance of delivery at the City of Fairhope approved delivery location.

63. VENDOR LIST

A vendor may be removed from the City of Fairhope's Bidders List if a vendor fails to respond to three (3) consecutive ITB's. A properly submitted "No Bid" is considered as a response and the vendor will receive credit for the response.

64. WARRANTY

The awarded vendor expressly warrants that all articles, materials, and work offered shall conform to each and every specification, drawing, sample, or other description which is furnished to or adopted by the City of Fairhope, and that it will be fit and sufficient for the purpose intended, merchantable, of good material and

workmanship, and free from defects. The awarded vendor further warrants all items for a period of one year, unless otherwise stated, from the date of acceptance of the items delivered and installed or work completed. All repairs, replacements, or adjustments during the warranty period will be at the awarded vendor's sole expense. Awarded vendor will provide written warranty for all parts and labor for a period of (1) one year commencing from date of written acceptance of delivery by City of Fairhope. Awarded vendor will provide written copies of all other applicable warranties, such as, Manufacturer's warranty. Those warranties, if any, will be in addition to the awarded vendor's warranty, and the terms of which will not be altered by the awarded vendor's warranty.

65. IMMIGRATION LAW

The CONTRACTOR agrees that it shall comply with all of the requirements of the **Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No 2011-535**, Alabama Code (1975) Section 31-13-1, et. Seq., (also known as the Alabama Immigration Act) see Section 31-13-9, and the provisions of said Act, including all penalties for violation thereof, are incorporated herein.

ITEM XI

ALABAMA IMMIGRATION ACT CONTRACT REQUIREMENTS

1.0 Background

The **Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No 2011-535, as amended by Act No 2012-491, Code of Alabama (1975) Section 31-13-1 through Section 31-13-30** (also known as and hereinafter referred to as “the Alabama Immigration Act”) is applicable to contracts with the City of Fairhope, Alabama. All business entities entering into contracts with the City of Fairhope, Alabama will comply with the Alabama Immigration Act.

2.0 Definition

ALIEN. Any person who is not a citizen or national of the United States, as described in 8 U.S.C. § 1101, et seq., and any amendments thereto.

BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. Business entity shall include but not be limited to the following:

- a. Self-employed individuals, business entities filling articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.
- b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, an any business entity that is operating unlawfully without a business license.

CONTRACTOR. A person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This definition shall include, but not be limited to, a general CONTRACTOR, sub-contractor, independent CONTRACTOR, contract employee, project manager, or a recruiting or staffing entity.

EMPLOYEE. Any person directed, allowed, or permitted to perform labor or service of any kind by an employer. The employees of an independent CONTRACTOR working for a business entity shall not be regarded as the employees of the business entity, for the purposes of this chapter. This term does not include any inmate in the legal custody of the state, a county, or a municipality.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

E-VERIFY. The electronic verification of federal employment authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, Division c, Section 403 (a); 8 U.S.C. §1324(a), and operated by the United States Department of Homeland Security, or its successor program.

STATE-FUNDED ENTITY. Any governmental entity of the state or a political subdivision thereof or any other entity that receives any monies from the state or a political subdivision thereof; provided, however, an entity that merely provides a service or a product to any governmental entity of the state

or a political subdivision thereof, and receives compensation for the same, shall not be considered a state-funded entity.

SUBCONTRACTOR. A person, business entity, or employer who is awarded a portion of an existing contract by a CONTRACTOR, regardless of its tier.

UNAUTHORIZED ALIEN. An alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a (h) (3).

3.0 Mandatory Clause

All contracts or agreements to which the state, a political subdivision, or state-funded entity are a party shall include the following clause:

"By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom."

For purposes of this section, "contract" shall mean a contract awarded by the state, any political subdivision thereof, or any state-funded entity that was competitively bid or would, if entered into by the state or an agency thereof, be required to be submitted to the Contract Review Permanent Legislative Oversight Committee.

4.0 Contracts Involving Business Entity, or Employer

As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees within the state of Alabama, **the business entity or employer shall provide documentation establishing that the business entity or employer is enrolled in the E-Verify program.** During the performance of the contract, the business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations.

5.0 Contracts Involving Subcontracting

Any SUB-CONTRACTOR on a project paid for by contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama and shall also enroll in the E-Verify program prior to performing any work on the project. Furthermore, during the performance of the contract, the sub-contractor shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. This subsection shall only apply to sub-contractors performing work on a project subject to the provisions of this section and not to collateral persons or business entities hired by the sub-contractor.

6.0 Proof of E-Verify documentation will be in the form of a copy of the signed Memorandum of Understanding (MOU) generated upon completion of the E-Verify program.



Alabama Department of Environmental Management
adem.alabama.gov

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Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

August 8, 2016

MEMORANDUM

FROM: Brent A. Watson, Chief *BAW*
Removals and Response Section
Environmental Services Branch

SUBJECT: Storm Debris Cleanup

To facilitate the removal of debris resulting from catastrophic natural events, the following guidance is provided and shall supersede all previous guidance the Alabama Department of Environmental Management (ADEM) has provided on this issue in the past. I am also attaching the Department's guidance on open burning and emergency disposal following natural disasters.

- Regulated solid waste debris resulting from catastrophic natural events should be removed from all impacted areas.
- Vegetative and wood waste, including but not limited to stumps, logs, limbs, brush, and leaves, are not regulated solid waste. NOTE: vegetative and wood waste described herein which are contaminated with oil or oily products is considered regulated solid waste and should be disposed of in a lined landfill approved to accept this waste stream.
- The abandonment of regulated solid waste found in storm debris constitutes the establishment of an unauthorized dump, contrary to the requirements of the Alabama Solid Wastes & Recyclable Materials Management Act. Unauthorized dumps constitute a nuisance and a public health hazard, can result in additional damage to adjacent property and structures by creating impediments in surface water courses which flood, are breeding grounds for mosquitoes and other disease carrying vectors, are targets for fires set by vandals or careless acts, and encourage additional illegal disposal with their existence. Accordingly, when establishing a disposal site for vegetative waste, regulated solid waste shall be excluded. The landowner and/or person(s) responsible for the creation, contribution to, or operation of an unauthorized dump is responsible for its abatement, whether on public or private property.
- Do not place vegetative debris in wetlands or standing water.
- Avoid erosion features or low-lying areas. If not possible, ensure no impedance of water flow.
- Other agencies, such as FEMA or the U.S. Army Corps of Engineers, may have other criteria for the establishment of a vegetative debris disposal area and it is suggested that these agencies be contacted before a site is authorized by local governments.
- If burning of the vegetative debris is to take place at these sites, the burning must comply with the ADEM "Guidelines for Open Burning of Natural Disaster Debris, July 2016," a copy of which is attached.
- Vegetative debris disposal locations should be tracked by county officials, and a map showing the locations of these sites should be sent to the ADEM Environmental Services Branch – Removals and Response Section as soon as emergency cleanup activities have decreased and time permits.

If there are questions regarding disaster debris management, please contact Brent Watson at (334) 271-7894 or by email at baw@adem.alabama.gov.

Attachments

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
3664 Dauphin Street, Suite B
Mobile, AL 36608
(251) 304-1176
(251) 304-1189 (FAX)



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Guidelines for Open Burning of Natural Disaster Debris

July 2016

1. These guidelines apply to the open burning of debris resulting from catastrophic natural events.
2. Only vegetation and untreated wood may be burned. All other materials should be disposed of by burial in a permitted landfill or a site approved by the ADEM-Solid Waste Branch for disposal. NOTE: vegetative and wood wastes described herein which are contaminated with oil or oily products should be disposed of in a lined landfill approved to accept this waste stream, or destroyed by an air curtain incinerator meeting the specific conditions described below and with the expressed written approval of the Department's Air Division.
3. Open burning, including approval of sites, should be coordinated and supervised by county officials (public health officers, county engineers, solid waste coordinators, and emergency management officials). A municipality may conduct and supervise its own open burning, following these guidelines, after approval by a county official. If there is no governmental involvement, the open burning of vegetative debris is to be conducted in accordance with paragraph 10 below.
4. Open burning sites should be as distant as possible from occupied dwellings and businesses. Recommended minimum distance is 1000 feet. Prevailing wind direction should be considered to minimize nuisance smoke.
5. Information on the county, city (if applicable), beginning burning date, estimated ending date, organization, contact, telephone number, GPS location of the site entrance along with the name and contact information of the responsible official should be e-mailed to drb@adem.alabama.gov. A form you can use is available at this e-mail address or by telephoning 334-271-7879.
6. Material to be burned should be as dry as possible. Larger piles consume the debris faster during combustion.
7. Open burning is best conducted during clear weather, preferably on days with sunshine.
8. Burning may commence or fuel added to a fire between 8:00 am & 3:00 pm. Existing fires may burn beyond 3:00 pm.
9. The use of portable air curtain incinerators is encouraged and should be considered if one or more of the following situations exist:
 - a. Extended 24-hour burning is necessary.
 - b. Accelerated burning is desired.
 - c. Smoke is or may become a problem.
10. In those situations where governmental officials or their contractors are unable to provide vegetation removal for area residents, individual property owner requests for permission to open burn vegetative debris will be handled on a case by case basis. Each site must be inspected by an ADEM inspector before permission to open burn the debris may be authorized. Expect some delays and mandatory waiting periods. Paragraphs 3 to 5 and 9 do not apply. Telephone 334-271-7879 to request an inspection.
11. ADEM has the authority to halt or modify any open burning of disaster debris. ADEM contact for open burning is Don Barron, 334-271-7879.

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110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
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Emergency Disposal of Debris Resulting from Natural Disasters

July 2016

There is sufficient available landfill capacity within Alabama to properly manage the disposal of debris that may be generated during a natural disaster. However, in certain limited circumstances that may arise following a natural disaster, the Department acknowledges the unavailability of collection and transportation options may result in the possible need for emergency disposal sites. In these unusual circumstances, plots of land may be used for the emergency disposal of debris created during natural disasters that, due to the amount of waste generated, or the unavailability of waste collection services, would overwhelm the existing solid waste management infrastructure. Under these extraordinary conditions, the following guidelines shall apply:

- Application for use of an unpermitted site for emergency disposal of debris **must** be submitted to the ADEM Solid Waste Branch by a unit of local or state government.
- Sites to be used only for the staging of waste do not need the approval of ADEM prior to use.
- Sites to be used only for open burning do not need the approval of ADEM prior to their use, as long as the ADEM guidelines for open burning of natural disaster debris are followed.
- If regulated solid waste is burned (whether authorized or unauthorized), the operator of the site must conduct a hazardous waste determination on the ash resulting from open burning prior to closing the burn site and submit that to the ADEM Solid Waste Branch. ADEM will make a determination if the ash can remain at the site or must be removed from the site.
- If ash from open burning of regulated solid wastes is disposed of at the site, additional closure requirements, including but not limited to, an environmental covenant with ADEM in accordance with Division 5 regulations is required. Additional long-term monitoring may also be required if the ashes resulting from the burning of regulated waste are disposed on-site.
- Open burning shall not occur at a permitted landfill unless specifically approved by the ADEM Solid Waste Branch. Contact the Solid Waste Branch at 334-274-4201 for details.
- Sites to be used for disposal of regulated solid waste are to be approved by the ADEM-Solid Waste Branch prior to their use. The actual location of the site must be submitted to the ADEM Solid Waste Branch, along with any information that may be known about the site, such as proximity to residences, proximity to drinking water wells and wetlands, surface water bodies and streams. If the site is located within the 10-foot coastal zone, coordination with the ADEM-Field Operations Division must be done prior to approval.
- No hazardous wastes or putrescible wastes may be disposed of in these approved emergency disposal sites.
- Waste shall not be placed in groundwater if the site is excavated. Waste shall not be placed in wetlands.
- The disposal site must be closed in accordance with ADEM regulations for closure of a permitted construction/demolition landfill. For sites where regulated solid waste was disposed, the owner of the property will be required to conduct post-closure care of the site for a period of time, to be determined by ADEM based on the types of waste disposed of and the location of the site, up to 30 years after the site is closed. Additionally, an environmental covenant will be required following closure in accordance with ADEM-Division 5 regulations.
- The entity responsible for the disposal site must report to the ADEM-Solid Waste Branch once per month the activities that have occurred at the site for the previous month. ADEM will specify what is to be reported on a case-by-case basis.

The use of a site in an emergency situation does not imply that ADEM will approve the site as a permitted landfill. Following the cessation of emergency disposal activities, the site must comply with the permit application requirements of ADEM Administrative Code, Division 13 in order to operate as a permanent landfill.

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ITEM XIII
ATTACHMENTS



FEMA
DISASTER ASSISTANCE POLICY

DAP9523.11

I. TITLE: Hazardous Stump Extraction and Removal Eligibility

II. DATE: MAY 15 2007

III. PURPOSE:

Establish criteria used to reimburse applicants for removing eligible hazardous stumps from public or, where authorized, private property.

IV. SCOPE AND AUDIENCE:

The policy is applicable to all major disasters and emergencies declared on or after the date of publication. It is intended for all personnel involved in the administration and execution of the Public Assistance Program, including applicants.

V. AUTHORITY:

Sections 403 and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206, as amended.

VI. BACKGROUND:

Public Assistance regulations authorize reimbursement for the removal of debris from public and private land when it is in the public interest. Such removal is in the public interest when it is necessary to: eliminate immediate threats to life, public health and safety, or eliminate immediate threats of significant damage to improved public or private property; or to ensure economic recovery of the affected community to the benefit of the community at large. Trees that are uprooted during a disaster event such that all or part of their roots are exposed may pose an immediate threat to public health and safety.

VII. POLICY:

A. When a disaster event uproots a tree or stump (i.e., 50% or more of root ball is exposed) on a public right-of-way, improved public property or improved property owned by certain private nonprofit organizations, and the exposed root ball poses an immediate threat to life, public health and safety, FEMA may provide supplemental assistance to remove, transport, dispose, and provide fill for the root cavity of an eligible uprooted tree or stump. The Federal Emergency Management Agency (FEMA) will reimburse applicants reasonable costs for this type of work only when uprooted stumps are more than 24 inches in diameter (measured two feet from the ground), with the consensus of the Applicant and the State, and is approved in

Page 1 of 2



FEMA

DISASTER ASSISTANCE POLICY

DAP9523.11

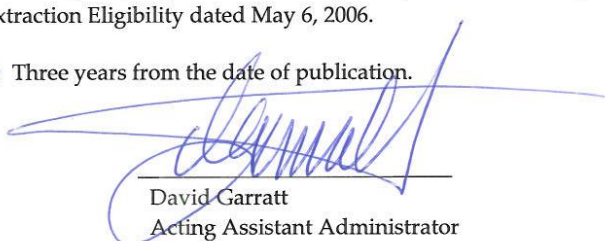
advance by FEMA, using the attached Hazardous Stump Worksheet.

1. If it is necessary to remove an uprooted stump before it can be inspected by FEMA because it poses a threat that must be dealt with immediately, the applicant must submit documentation, to FEMA including photographs, that establishes its location on public property, specifics on the threat, stump diameter measured two feet up the trunk from the ground, quantity of material to fill the hole, and any special circumstances.
2. FEMA will reimburse applicants for extraction, transport and disposal of stumps with a diameter of 24 inches or smaller at the unit cost rate for regular vegetative debris, using the attached Stump Conversion Table, as such stumps do not require special equipment.
3. FEMA will reimburse applicants at the unit cost rate (usually cubic yards) for normal debris removal for all stumps, regardless of size, placed on the rights-of-way by others (i.e., contractors did not extract them from public property or property of eligible Private Non Profit organization). In such instances, applicants do not incur additional cost to remove these stumps because the same equipment that is used to pick up "regular" debris can be used to pick-up these stumps.
4. If an applicant incurs additional costs in picking up large stumps (over 24 inches in diameter) from rights-of-way, it should complete the Hazardous Stump Worksheet and present documentation to FEMA in advance for consideration.
5. Stumps with less than 50% of their root ball exposed should be cut flush at ground level and the cut portion included with regular vegetative debris.
6. Straightening or bracing of trees is eligible for reimbursement if it is less costly than removal and disposal. Applicant must provide a cost analysis showing cost effectiveness.

VIII. ORIGINATING OFFICE: Disaster Assistance Directorate (Public Assistance Division)

IX. SUPERSESION: This policy supersedes Recovery Policy Number 9523.11, Hazard Stump Removal and Extraction Eligibility dated May 6, 2006.

X. REVIEW DATE: Three years from the date of publication.


David Garratt
Acting Assistant Administrator
Disaster Assistance Directorate

Page 2 of 2

Hazardous Stump Worksheet

Applicant: _____ Date: _____

Applicant Representative: _____ Signature: _____

FEMA Representative (if available) _____ Signature: _____

State Representative (if available): _____ Signature: _____

	Physical Location (i.e., Street address, road, cross streets, etc.)	Description of Facility (ROW, Park, City Hall, etc.)	Hazard		GPS (decimal degrees, 00.000000)		Tree Size (Diameter)	Eligible		Fill For Debris Stumps	Comments (See attached sketch, photo, etc.)
			Yes	No	Latitude (N)	Longitude (W)		Yes	No		
1											
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REQUIRED CONTRACT PROVISIONS FEDERAL – AID CONSTRUCTION CONTRACTS

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A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under 2 this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the

investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
- b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

- a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
- b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

- a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
- b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

- a. The records kept by the contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established

by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or

lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows: "Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented; Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph

(f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the 11 department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
 - a. To the extent that qualified persons regularly residing in the area are not available.
 - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
 - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.
2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.
3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.
5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.
6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

ITEM XIV SAMPLE CONTRACT

This **CONTRACT** is made this _____ day of _____, 2018, by and between the City of Fairhope (hereinafter referred to as the "**OWNER**") and _____ (hereinafter referred to as the "**CONTRACTOR**"), for

Bid No. 020-18 Disaster Debris Removal and Disposal

The **OWNER** and the **CONTRACTOR** agree as set forth below:

1. The **CONTRACT** consists of all the items contained within this **CONTRACT**, The Proposal Package, Proposal, Scope of Work and Specifications, drawings (if applicable), Addenda, Amendments, and City of Fairhope Standard Terms and Conditions, which are attached hereto and made a part hereof, as if fully contained herein; for the performance of all work and the furnishing of all labor and materials required for completion of the **WORK**.
2. The **CONTRACTOR** shall perform all the **WORK** described herein.
3. **Term of Agreement**
The term of the **CONTRACT** shall be for a period of one (1) year from the signing date of **CONTRACT**, with the option to renew bid or **CONTRACT** for two (2) additional years thereafter in one (1) increments if terms and conditions, including pricing remain the same, and both parties are in agreement to renewing the bid or **CONTRACT**. Therefore, the **CONTRACT** will being on ____ / ____ , 2018, and terminate ____ / ____ , 2019.
4. **Compensation**
 - a. Contractor is to invoice **OWNER** upon completion of work specified in the applicable purchase order.
 - b. Purchase Order number must be referenced on all communications including delivery tickets and invoices.
 - c. All invoices received by the **OWNER** are payable within thirty (30) days from the date of receipt by the **OWNER**, provided they are approved by the **OWNER**.
5. **Payment Withheld**
The **OWNER** may withhold approval for payment on any request and the **OWNER** may withhold payment to such extend as may be necessary to protect the **OWNER** from loss on account of:
 - a. Negligence on the part of the **CONTRACTOR** to execute the work properly or fail to perform any provision of this Agreement.
 - b. The **OWNER**, after three (3) days written notice to the **CONTRACTOR**, may without prejudice to any other remedy, make such good deficiencies and may deduct the cost thereof from the overall Agreement sum.
 - c. Claims filed or reasonable evidence indicating probably filing of claims.
 - d. Failure of the **CONTRACTOR** to make payments properly to **SUB-CONTRACTORS** for material or labor.
 - e. A reasonable doubt that the Agreement can be completed for the balance then unpaid.
 - f. Damage to City facilities, or another **CONTRACTOR** or another **CONTRACTOR'S** work.

When the above grounds are removed, payment shall be made for the amount withheld because of them. The **CONTRACTOR** waives all cancellation rights under the agreement, if payment is withheld for one or more of the above reasons.

6. General Conditions

- a. **Indemnity:** The CONTRACTOR hereby agrees to indemnify and save harmless the OWNER, its officers, agent, employees, State of Alabama, Federal Government, including FEMA, and its employees from and against any and all liabilities, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including reasonable attorneys' fees for trial and on appeal, of any kind and nature, arising or growing out of, or in any way connected with the performance of this CONTRACT, to the extent caused by a negligent act or omission of the CONTRACTOR, their agents, servants, employees, SUB-CONTRACTORS, or others associated with the CONTRACTOR. The CONTRACTOR shall be responsible for damage to any elevator equipment excluded from this agreement, or damage or injury caused by any equipment excluded from this agreement, to the extent that the damage or injury is caused by a negligent act or omission of the CONTRACTOR.
- b. **Notification and Accident Reports:** Written Notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party serving the notice. In the event of accidents of any kind, the CONTRACTOR shall notify the OWNER immediately and furnish, without delay, copies of all such accident reports to the OWNER. If in the performance of their work, the CONTRACTOR fails to immediately report an accident to the OWNER, of which the CONTRACTOR has knowledge of and which results in a fine levied against the OWNER then the CONTRACTOR shall be responsible for all fines levied against the OWNER.

7. Termination of Agreement

- a. **Termination for Default:** Performance of Work under this Agreement may be terminated by the OWNER, in whole or in part, in writing, whenever the OWNER determines that the CONTRACTOR has failed to meet the requirements of this Agreement.
 - i. The Owner has a right to terminate for default if the contractor fails to make delivery of material or does not perform the work, or if the Contractor fails to perform the Work within the time specified in the Agreement, or if the Contractor fails to perform any other provision of the Agreement.
 - ii. Failure on the part of the Contractor to deliver or perform the Work within the time specified, or within a reasonable time as determined by the Owner, or failure on the part of the Contractor to make replacements of rejected articles, or Work when so requested, immediately or as directed by the Owner, shall constitute authority for the Owner to purchase in the open market, articles or Work of comparable grade to replace the articles or Work rejected, not delivered or completed. On all such purchases, the Contractor shall reimburse the Owner within a reasonable time specified by the Owner for any expense incurred in excess of Agreement prices.
 - iii. Such purchases shall be deducted from the Agreement sum. If public necessity demands it, the Owner reserves the right to utilize services or use and/or consume articles delivered, which are standard in quality, subject to an adjustment of price to be determined by the Owner.
- b. **Termination for Convenience:** The OWNER has the absolute right to terminate the Agreement upon "Award of Contract" another CONTRACTOR, to perform work referenced herein. In such event, payment of the monthly contract fee shall cease on the date of cancellation of the CONTRACT by the OWNER.

8. Warranty

- a. The CONTRACTOR warrants that the Work including equipment and materials provided shall conform to the professional standards of care and practice in effect at the time the Work is performed, be of the highest quality, and be free from all faults, defects, or errors. If the CONTRACTOR is notified in writing of a fault, deficiency or error in the Work, the CONTRACTOR shall at the OWNER's option, either re-perform such portions of the Work to correct such fault, defect, or error, at no additional cost to the OWNER, or refund to the OWNER the charge paid by the OWNER, which is attributable to such portions of the faulty, defective or erroneous Work, including costs for re-performance or Work provided by other CONTRACTORS. All equipment and materials provided by the CONTRACTOR shall be merchantable and for the purpose intended and meet all industry quality standards.

9. Time of Completion

The OWNER and CONTRACTOR understand and agree that time is of the essence in the performance of this Agreement. The CONTRACTOR or OWNER, respectively, shall not be liable for any loss or damage, resulting from any delay or failure to perform its contractual obligations within the time specified, due to acts of God, actions or regulations by any governmental entity or representative, strikes, fire, water damage, loss of power, loss of funding or any other causes, contingencies, or circumstances not subject to the OWNER or CONTRACTOR'S control, respectively, whether of a similar or dissimilar nature, which prevent or hinder the performance of the OWNER'S or CONTRACTOR'S contractual obligations, respectively. Any such causes of delay, even though existing on the date of the CONTRACT, or on the day of the start of Work, shall extend the time of the OWNER'S or CONTRACTOR'S performance respectively, by the length of the delays occasioned thereby, including delays reasonably incident to the resumption of normal Work schedules.

However, under such circumstances as described herein, the OWNER may, at their discretion, cancel this CONTRACT for their own convenience.

10. Insurance Requirements

See ITEM VII

11. Acceptance of Work

The OWNER will be deemed to have accepted the Work after the OWNER agrees the Work is completed. In the event Work furnished under the CONTRACT is found to be defective or does not conform to the intent of the CONTRACT, the CONTRACTOR shall, within ten (10) days from receipt of notice from the OWNER, correct the deficiencies. Failure on the part of the CONTRACTOR to properly correct the deficiencies within the time period allowed will constitute the OWNER'S right to cancel the CONTRACT immediately, upon written notice to the CONTRACTOR.

12. Correction of Work

The CONTRACTOR shall promptly correct all Work rejected by the OWNER as faulty, defective or failing to conform to the CONTRACT, whether observed before or after completion of the Work. The CONTRACTOR shall bear all costs of correcting such rejected Work.

13. Right to Audit

The CONTRACTOR shall maintain documentation of all work performed. The CONTRACTOR shall make any and all documentation available to the OWNER at all reasonable times, for inspections and audit by the OWNER, during the entire term of the CONTRACT, and for a period of three (3) years after the expiration of this CONTRACT.

14. CONTRACT Rights and Remedies

The CONTRACTOR shall maintain documentation of all work performed. The CONTRACTOR shall make any and all documentation available to the OWNER at all reasonable times, for inspections and audit by the

OWNER, during the entire term of the CONTRACT, and for a period of three (3) years after the expiration of this CONTRACT.

15. Time is of the Essence

The Owner and CONTRACTOR agree that time is of the essence in the performance of Work called for under this CONTRACT. The CONTRACTOR agrees that all work will be accomplished regularly, diligently and uninterrupted at such a rate of progress as will ensure full completion thereof within reasonable time periods.

16. Safety Measures

The CONTRACTOR shall take all necessary precautions for the safety of the OWNER'S and CONTRACTOR'S employees at the Work site, and shall erect and properly maintain at all times, all necessary safeguards for the protection of the workmen and the public. The CONTRACTOR shall post signs warning against hazards in and around the Work site.

17. Extra Work and Associated Costs

- a. Changes in the Work: The OWNER, without invalidating the CONTRACT, may order changes in the Work within the general scope of this CONTRACT, consisting of additions, deletions, or other revision, the CONTRACT price and time for execution of the Work being adjusted accordingly.
- b. All such changes in the Work shall be authorized by a written Amendment to the CONTRACT or a separate Change Order and shall be executed under the applicable conditions of the CONTRACT.

18. Familiarity with the Work

The CONTRACTOR, by executing this CONTRACT, acknowledges full understanding of the extent and character of the Work required and the conditions surrounding the performance thereof. The OWNER will not be responsible for any alleged misunderstanding of conditions surrounding the performance thereof. It is understood that execution of the CONTRACT by the CONTRACTOR serves as his stated commitment to fulfill all requirements and conditions referred to in this CONTRACT.

19. Scope of Work (See ITEM VIII)

20. Contractor Liability

Nothing in this CONTRACT shall be construed to mean that the CONTRACTOR assumes any liability for damages or otherwise, on account of accidents to persons or property, except those resulting from negligence on the part of the CONTRACTOR or its agents, servants, employees, and subcontractors.

21. Miscellaneous Provisions

- a. The CONTRACTOR shall not employ SUB-CONTRACTORS without the express written permission of the OWNER.
- b. The CONTRACTOR shall not assign the CONTRACT or sublet it as a whole without the express written permission of the OWNER. The OWNER may assign the CONTRACT, or sublet it as a whole, without the consent of the CONTRACTOR.
- c. No waiver, alteration, consent, or modification of any of the provisions of the CONTRACT shall be binding unless in writing and signed by the OWNER and CONTRACTOR.
- d. The CONTRACTOR is to procure all permits, licenses, and certificates, or any approvals of plans or specifications as may be required by Federal, State, Local Laws, ordinances, rules, and regulations, for the proper execution and completion of Work covered under this CONTRACT.

- e. The CONTRACTOR shall at all times keep the Work area free from accumulation of waste materials or rubbish caused by his operations, and promptly remove any such materials to an area designated by the OWNER or remove to a waste site as directed by the OWNER. If the CONTRACTOR fails to clean up the Work site, the OWNER will complete the task and charge the CONTRACTOR for such services.
- f. This CONTRACT is considered a non-exclusive Agreement between the parties.
- g. This CONTRACT is deemed to be under and shall be governed by and construed according to the laws of the State of Alabama.
- h. Any litigation arising out of the CONTRACT shall be heard in the Courts of Baldwin County, Alabama.
- i. This CONTRACT contains all terms and conditions agreed upon by the OWNER and CONTRACTOR. No other agreement, oral or otherwise, regarding the subject matter of this CONTRACT shall be deemed to exist or to bind either party hereto.
- j. This CONTRACT shall not be construed against the party or parties preparing it. It shall be construed as if all the parties and each of them jointly prepared this CONTRACT, and any uncertainty or ambiguity shall not be interpreted against one or more parties.

Section 41-16-5, Code of Alabama 1975, requires that public contracts over \$15,000 include the following language:

***By signing this Contract, _____ represents and agrees that it
COMPANY NAME
is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with
a jurisdiction with which the State of Alabama can enjoy open trade***

IN WITNESS WHEREFORE, the parties hereto have executed this **CONTRACT** as of the day and year first above written.

THE CITY OF FAIRHOPE, ALABAMA

Karin Wilson, Mayor

ATTEST: _____
Lisa A. Hanks, MMC, City Clerk

NOTARY FOR OWNER (CITY OF FAIRHOPE)

STATE OF ALABAMA _____ }
COUNTY OF BALDWIN _____ }

I, the undersigned authority in and for said State and County, hereby certify that KARIN WILSON, Mayor of the City of Fairhope whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day, that, being informed of the contents of the document she executed the same voluntarily on the date the same bears date.

Given under my hand and Notary Seal on this _____ day of _____, 2018

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

IF INDIVIDUAL OR PARTNERSHIP

Individual or Partnership

Print Name of Partner

Print Name of Representative Authorized to Sign
Contracts for the firm

Print Name of Partner

Signature of Representative Authorized to Sign
Contracts for the firm

Print Name of Partner

Address

Address

City, State, Zip Code

Phone Number

Fax Number

Primary E-mail Address

AL General Contractor License No. (Attach Copy if Required)

AL General Contractor License Major Categories (As Required)

AL General Contractor Specialties (As Required)

AL Foreign Corporation Entity ID (Required of Out of State Vendors)

IF CORPORATION OR LLC

Company

State of Incorporation

Company Representative

Print Name of Representative Authorized to Sign
Contracts for the firm

Signature of Representative Authorized to Sign
Contracts for the firm

Address

Address

City, State, Zip Code

Phone Number

Fax Number

Primary E-mail Address

AL General Contractor License No. (Attach Copy if Required)

AL General Contractor License Major Categories (As required)

AL General Contractor Specialties (As required)

AL Foreign Corporation Entity ID (Required of Out of State Vendors)

NOTARY FOR INDIVIDUAL, PARTNERSHIP, CORPORATION, OR LLC

STATE OF _____ }
COUNTY OF _____ }

I, the undersigned authority in and for said State and County, hereby certify that _____
Name

respectively of _____
Title Company Name

Whose name is signed in the foregoing document and who is known to me, acknowledged before me on this day,
being informed of the contents of the document they executed the same voluntarily on the day the same bears
date.

Given under my hand and Notary Seal on this _____ day of _____, 2018

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

DAILY ISSUE LOG

ROVING MONITOR LOG

TOWER MONITOR LOG

Monitor: _____

DAILY ISSUE LOG

Date: _____

[illegible]

Applicant: _____

Page _____

TOWER MONITOR LOG

Date: _____

Monitor: _____

Applicant Monitor: _____

[illegible]

Applicant: _____

Page _____

Tower Site: _____

CITY OF FAIRHOPE CLOSEOUT DOCUMENTS

CONSENT OF SURETY COMPANY TO FINAL PAYMENT

CONTRACTOR'S AFFIDAVIT TO PAYMENT

FINAL RELEASE OF LIENS

NOTICE OF COMPLETION ADVERTISEMENT

CONSENT OF SURETY COMPANY TO FINAL PAYMENT

PROJECT NO: PW _____ -18

PROJECT NAME:

OWNER: CITY OF FAIRHOPE
P.O. Drawer 429
Fairhope, AL 36533

CONTRACTOR: _____

In accordance with the provision of the Contract between the OWNER and the CONTRACTOR as indicated above, the

_____, Surety Company on bond of _____

_____ CONTRACTOR and agrees that final payment to the CONTRACTOR shall not relive the Surety Company of any of its obligations to the City of Fairhope as set forth in the said Surety Company's bond dated

_____ day of _____, 2018.

IN WITNESSS WHEREOF

The Surety Company has hereunto set its hand this _____ day of _____, 2018.

ATTEST
(Seal)

Surety Company

Signature of Authorized Representative

Title

CONTRATOR'S AFFIDAVIT OF PAYMENT OF CLAIMS & DEBTS

PROJECT NO: PW _____ -18

PROJECT NAME:

OWNER: CITY OF FAIRHOPE
P.O. Drawer 429
Fairhope, AL 36533

CONTRACTOR:

STATE OF _____ }

COUNTY OF _____ }

The undersigned hereby certified that, except as listed below, he has paid in full or otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor and services performed, and for all known indebtedness and claims against the CONTRACTOR for damages arising in any manner in connection with the performance of the CONTRACT referenced above for which the OWNER of his property might in any way be held responsible.

EXCEPTION: (If none, write NONE)

CONTRACTOR

Signature

Printed Name

Title

Subscribed and sworn to and before me this _____ day of _____ ,
2018

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

FINAL RELEASE OF LIENS

KNOWN ALL MEN BY THESE PRESENTS: In consideration of, and contingent upon the receipt of total payments in the amount of _____

Under and pursuant to the following contract:

Bid No. 020-18 Disaster Debris Removal and Disposal
PROJECT No. PW _____ -18 _____

The undersigned hereby releases _____ its officers agents, and employees, of and from all liabilities, obligations, and claims whatsoever in law and in equity under or arising out of said contract. We do hereby certify that all labor, materials, equipment, supplies, and etc. for this project have been paid in full and there is no outstanding indebtedness.

IN WITNESS WHEREOF, this release has been executed this _____ day of _____, 2018

CONTRACTOR

Signature

Printed Name

Title

NOTARY

STATE OF _____ }
COUNTY OF _____ }

I, the undersigned authority in and for said State and County, hereby certify that _____
Name

As _____ respectively of _____
Title Company Name

Whose name is signed in the foregoing document and who is known to me, acknowledged before me on this day, being informed of the contents of the document they executed the same voluntarily on the day the same bears date.

Given under my hand and Notary Seal on this _____ day of _____, 2018

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____