

PUBLIC NOTICE
ITEM I
INVITATION TO BID

BID NO. 036 Aerification Equipment for Quail Creek

Sealed bids will be received, opened, and read aloud in public session for **Bid No. 036-20 Aerification Equipment for Quail Creek** for the **CITY OF FAIRHOPE, AL**, at **9:00 A.M. on Friday, September 18, 2020**, at the City of Fairhope City Services and Utilities Bldg. located at 555 S. Section St., Fairhope, Alabama.

Bid Specifications may be obtained from the City of Fairhope City Services and Utilities Bldg 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.

All bids must be on blank bid forms provided in the Bid Documents. Bids shall be accompanied by a Bid Security equal to five percent (5%) of the bid price, but in no event more than \$10,000.00. 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. No Bid Security is required on bids less than \$10,000.00.

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 the signing of the CONTRACT, 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 NO pre-bid meeting.

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. Proof of Workman's Compensation Insurance if work is done on City premises and General Liability Insurance specifying coverage must be maintained to hold the City of Fairhope harmless in the event of an accident. See bid packet for further details.

No bids will be considered unless the bidder, 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>. Bidder must have a **current business license or purchase a business license with the City of Fairhope prior to work performed**. No bids 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.

Delores A. Brandt
Purchasing Manager
deedeeb@fairhopeal.gov

ITEM II INVITATION TO BID

Bid No. 036-20 Aeration Equipment for Quail Creek

INVITATION TO BID POSTING DATE:	September 4, 2020
BID NAME AND BID No.:	Bid No.036-20 Aerification Equipment for Quail Creek
PRE-BID MEETING DATE:	N/A
PLACE OF BID OPENINGS:	City Services and Public Utilities Building, 555 S. Section St., Fairhope, AL
BID MUST BE RECEIVED BEFORE:	September 18, 2020 at 9:00 A.M. (Central)
BID MUST BE PUBLICLY OPENED:	September 18, 2020 at 9:00 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 Bidder’s Name and Number, Bidder’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 (PO), 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 proposals must be mailed or hand delivered to the following addresses:

City of Fairhope
Attn: Delores A. Brandt, 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, Delores A. Brandt (deedeeb@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 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.
- 1.2 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.
- 1.3 The bidder shall be required to file with his or her proposal either a cashier's check drawn on an Alabama bank or a bid bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama, payable to the City of Fairhope for an amount not less than five percent (5%) of the awarding authority's estimated cost or of the CONTRACTOR'S bid, but in no event more than ten thousand dollars (\$10,000).
- 1.4 The bidder to whom award is made shall provide a Performance Bond equal to 100% (percent) of the Contract amount and a Labor and Materials Bond equal to 100% (percent) of the Contract amount. The accepted bidder shall also provide insurance as required further detailed herein.
- 1.5 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.
- 1.6 Except for contracts funded in whole or in part by funds received from a federal agency, preference shall be given to resident CONTRACTORS on the same basis as the non-resident bidder's state awards contracts to Alabama CONTRACTORS bidding under similar circumstances. Therefore, non-resident bidders shall submit with their bid a written opinion of an attorney at law licensed to practice law in the non-residents bidder's state of domicile as to preferences granted by the state to entities doing business in that state when letting public contracts.
- 1.7 Signed resolution disposition is required before award of contract.

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 Contact initiated by a potential bidder with a City official will be only as specifically set out in this invitation. Any other contact with a City official initiated by a potential bidder or bidder regarding this bid, **between the date of this invitation to the date of bid award**, shall be deemed and treated as an attempt to unduly influence the bid award, and may be grounds for rejection of the bid submitted by the bidder initiating such other contract, at the discretion of the City of Fairhope. All questions regarding the contents of this bid should be directed to the Purchasing Manager.
- 3.4 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.

- 3.5 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 Bids with the lowest Total Bid amount from a responsive and responsible bidder may be accepted if within the contract budget. In the event that alternates are listed on the Bid Form, the lowest combination of Total Bid and Alternate Bid accepted by the owner shall be the accepted bid. Alternates shall be awarded in the order in which they are listed on the Bid Form.
- 4.2 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. **Note: This project may be ordered by issuance of a Purchase Order.**
- 4.3 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 contract, 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.
- 4.4 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.
- 4.5 The CONTRACTOR shall commence work within 10 days of issuance of the *Notice to Proceed* (NTP), or as otherwise directed in writing.
- 4.6 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.
- 4.7 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.
- 4.8

- 4.9 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.
- 4.10 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.

5.0 PROSECUTION OF WORK

- 5.1 The Contractor shall commence work within ten (10) days of issuance of the Notice to Proceed (NTP) by the Project Manager or as otherwise directed in writing.
- 5.2 The Contractor shall prosecute the work continuously and diligently in the order and manner set out in his schedule as approved by the Project Manager. He shall provide sufficient satisfactory materials, labor, and equipment to insure that the work will be completed in a satisfactory manner within the time specified in the Contract / Purchase Order.
- 5.3 Should the Contractor fail to maintain a satisfactory rate of progress, the Project Manager may require that additional forces and/or equipment be placed on the work to bring the project up to schedule and maintain it at any level.
- 5.4 Should the Contractor fail to furnish sufficient satisfactory equipment and/or labor for maintaining the quality and progress of the work at satisfactory level, the Project Manager may withhold all estimates that may become due until satisfactory quality and progress are maintained; or the contract may be annulled.

6.0 PACKAGING AND DELIVERY

- 6.1 Deliver bid items to the City of Fairhope Warehouse located at 555 S. Section St., Fairhope, AL 36532 or other designated city site, maintaining product in proper state, undamaged.
- 6.2 At point of delivery, awarded vendor will present an itemized delivery ticket with the Purchase Order Number clearly referenced thereon, to City of Fairhope receiving personnel for signing.
- 6.3 F.O.B. City of Fairhope, as directed.
- 6.4 Shortages, defective or damaged items will be rejected. The awarded vendor will replace such items within ten (10) working days.
- 6.5 If applicable, 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 Owner approved delivery location.
- 6.6 The bidder shall give the City at least 24 hours' notice (weekends and holidays excluded) prior to delivery on site.

7.0 PAYMENT

- 7.1 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. Drawer 429
Fairhope, AL 36533
ap@fairhopeal.gov
- 7.2 All invoices must reference appropriate Purchase Order Numbers and / or Contract Number, Project Number, etc.
- 7.3 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.

**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 BID No. for which the Principal's Proposal is submitted (Bid Name as it appears in the Bid Documents):

Bid No. 036-20 Aerification Equipment for Quail Creek

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 five percent (5%) of the amount of the Principal's bid, but in no event more than TEN THOUSAND DOLLARS (\$10,000.00). 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 _____, 2020.

Principal (Company)

ATTEST

_____ by _____

Print Name and Title

Surety Company

SURETY ATTEST

by _____

Print Name and Title

UNAVAILABLE

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. 036-20 Aerification Equipment for Quail Creek** 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 _____, 2020.

SIGNATURE of Individual Bidder DBA, _____
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

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. 036-20 Aerification Equipment for Quail Creek** 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 _____, 2020.

_____, 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
REGISTRATION

CONTRACTOR'S STATE OF ALABAMA FOREIGN VENDOR
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

Bid No. 036-20 Aerification Equipment for Quail Creek

The City of Fairhope is seeking bids for **ONE (1) Verti-Quake (OR EQUIVALENT) rotary aerator that de-compacts the soil using a set of rotating steel blades that cut cleanly through the soil, creating a wave action that shatters compacted areas and opens up the subsoil.** The awarded bidder will be responsible for furnishing all labor and materials necessary for instruction and training on this new equipment as well.

1.0 MINIMUM REQUIREMENTS

- 1.1 Quoting vendor offers to furnish materials, equipment or services/training in compliance with all terms, conditions, and specifications herein including all amendments. Submitting this document constitutes complete understanding and compliance with the terms and conditions and certifies that all necessary facilities and personnel are available and established at the time of the quotation submittal. Bidders are required to read and understand all information contained within this entire bid package.
- 1.2 The Aerator attachment shall be of commercial design and shall be complete with all of the necessary accessories as show and described herein. Accessories not specifically mentioned, but necessary to furnish a complete unit ready for use shall also be included. All equipment shall be new and of current production of national firms that manufacture overhead doors and the specified accessories. The awarded bidder shall provide the overhead doors as complete and coordinate systems.
- 1.3 **WARRANTY** – Awarded bidder will provide written warranty for all parts and labor for a period of one (1) year commencing from date of written acceptance of delivery / installation by City of Fairhope. Manufacturer’s warranties must align with those contained herein. Awarded bidder will provide written copies of all other applicable warranties. Those warranties will be in addition to the Awarded Bidder Warranty, and the terms of which will not be altered by the Awarded Bidder’s Warranty.
- 1.4 The specifications are intended and provided solely as a general and non-exhaustive expression of the intent and purpose of the City of Fairhope regarding this bid; said specifications should be so considered by the bidders. The use of specific names is not intended to restrict the any seller or Manufacturer but is solely for the purpose of indicating the type, size and quality of materials, product services, or equipment best suited for the City of Fairhope. Accordingly, the bidder admits and agrees that said specifications are not complete in every detail and that the work and materials not indicated or expressly mentioned in said specifications, but which are reasonably necessary for the full and faithful performance of the item(s) bid in accordance with the full and faithful intent, will be included in the bid and incorporated in the work by the bidder and at the bidder’s sole expense, the same as if indicated and specified.

2.0 TECHNICAL SPECIFICATIONS

Working width m	1.6 m
Working width inch	63 inch
Max working depth mm	250 mm
Max working depth inch	9.8 inch
Max working speed kmh	0.5 km/h
Weight kg	575 kg
Weight lbs	1355 lbs
Number of knives blades	18
Distance between knife discs	260 mm
Distance between knife discs inch	10.2 inch
Standard knife thickness mm	12mm
Standard knife thickness inches	0.47 inch
Min tractor hp required	30-45 HP
Min lifting capacity kg	750 kg
Min lifting capacity lb s	1653 LBS
Max capacity m2hr	2400 m 2/hr
Max capacity ft 2hr	25833 ft 2/hr
Three-point hitch	3-point CAT 1-2
Rpm max	540 rpm
Gearbox oil	SAE 90
Lubricant	EP 2
Dimensions mm	1780 x 830 x1500 mm
Dimensions inch	70.1 x 32.7 x 59 inch

2.1 REQUIREMENTS OF CONTRACTOR

All applicable license or permit fees to be acquired and paid by the CONTRACTOR

CONTRACTOR to provide all necessary services, equipment training and materials unless stated otherwise above

CONTRACTOR to comply with laws, codes, and regulations, including safety, fire, health, environment, and insurance

THE CONTRACTOR will be responsible for all minor facilities and equipment damages (i.e., paint, drywall, etc.) caused by the CONTRACTOR' resulting from negligence during the execution of this procurement. This includes but is not limited to damage too small to be covered by the CONTRACTOR'S insurance.

Written change proposals shall be provided the project manager by the CONTRACTOR for any modifications to the plans, specifications, or other contract requirements. The proposal shall include add-on or deduct costs, if any. The project manager will return an approved copy of the proposal prior to any change implementation.

3.0 COMPLIANCE

Vendor **must acknowledge** **VENDOR COMPLIANCE**. If vendor does not acknowledge VENDOR COMPLIANCE, it will be understood that vendor cannot fulfill said specifications. If it is necessary to bid alternate materials or to take exceptions to the specifications as set forth, this must be so stated in your bid. Failure to follow the format or answer the specification may cause your bid to be disqualified. If you need extra space to describe your product, please attach extra sheets. When doing this, be sure your description references the appropriate specification item.

- 3.1.1 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.

ITEM IX

BID RESPONSE FORM

Date: _____

Bid No. 030-20 Aerification Equipment for Quail Creek

The specifications for this bid are intended and provided solely as a general and non-exhaustive expression of the intent and purpose of the City of Fairhope regarding this bid; said specifications should be so considered by the bidders. **The use of specific names is not intended to restrict the bidder or any seller or manufacturer but is solely for the purpose of indicating the type, size and quality of materials, product services, or equipment best suited for the City of Fairhope.** Accordingly, the bidder admits and agrees that said specifications are not complete in every detail and that the work and materials not indicated or expressly mentioned in said specifications, but which are reasonably necessary for the full and faithful performance of the item(s) bid in accordance with the full and faithful intent, will be included in the bid and incorporated in the work by the bidder and at the bidder's sole expense, the same as if indicated and specified. All materials shall be new and of current production of national firms that supply FRPPE, and the specified accessories.

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

The City of Fairhope does not guarantee that the City will procure any set quantities. This Bid will be **awarded by Purchase Order (PO)** and the number associated with the PO should be noted on any invoice submitted to the Accounts Payable for this procurement.

The Bid Form must be filled out completely.

Delivery Lead Time (ARO): _____ Days

We propose to meet or exceed the bid specifications the AERATOR for the sum of:

Price \$ _____

If there are any deviations to the scope of work, please denote it as such in your bid and indicate where exceptions are being taken.

Delivery will be made to Quail Creek Golf Course, 19841 Quail Creek Drive. Fairhope. AL 36532

VENDOR COMPLIANCE: YES _____ No _____

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
COMPANY NAME
agrees that it 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 _____, 2020.

IF INDIVIDUAL

_____, DBA, _____
SIGNATURE of Individual Bidder Business Name

Address

Address

City, State, Zip Code

Phone Number Fax Number

Primary E-mail Address

FCC License No. (Required proof of Certification of Alabama Public Service Commission should be attached to this Bid Response)

AL General Contractor License No. (Attach Copy)

AL General Contractor License Major Categories

AL General Contractor Specialties

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

FCC License No. (Required proof of Certification of Alabama Public Service Commission should be attached to this Bid Response)

AL General Contractor License No. (Attach Copy)

AL General Contractor License Major Categories

AL General Contractor Specialties

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 _____
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 _____, 2020

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 _____

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 www.fairhopeal.gov. 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-DISCRIMINATION

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. Drawer 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.

- 4.0** **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.