



**CITY OF FAIRHOPE
INVITATION TO BID**

SEALED BIDS will be received by the City of Fairhope of Baldwin County, Alabama, in the City of Fairhope's City Services and Public Utilities Building located at, 555 South Section St. Fairhope, Alabama, until 2:00 P.M. Thursday, October 5, 2023, and then publicly opened thereafter, for furnishing all labor and materials, and performing all work required by the City of Fairhope and described as follows:

**Bid Number 24-001
Cowpen Creek Boring**

The City of Fairhope is requesting responses from qualified contractors to bore and install 600' of 12"HDPE pipe at Cowpen Creek.

Bid documents will be posted on the City of Fairhope Website: www.FairhopeAL.gov or a copy may be obtained by e-mailing: Purchasing@FairhopeAL.gov. Specifications are on file and may be seen in the Purchasing Department of the City of Fairhope, Alabama, 555 S. Section Street. Prior to opening, Bid packages may be picked up at that location during normal operation, between 7:00 am and 4:00 pm local time.

Questions or comments pertaining to this bid must be presented in writing, sent as e-mail to the attention of the Purchasing Manager, Erin Wolfe, 555 South Section St., Fairhope, AL 36532, e-mail: Purchasing@FairhopeAL.gov, by Friday, September 29, 2023, at 11:00 A.M. or will be forever waived.

The City of Fairhope is an Equal Opportunity Employer and requires that all **BIDDERS** comply with the Equal Employment Opportunity laws and the provisions of the CONTRACT Documents in this regard. The **CITY** also encourages and supports the utilization of Minority Business Enterprises on this and all public bids.

All bids must be on blank bid forms provided in the Bid Documents. All bids, with their guarantee (when required), must be enclosed in a sealed, opaque envelope, clearly identified on the outside as a "**Sealed Bid**" with **Item Name, Bid Number, City of Fairhope's Name and Address and CONTRACTOR's Name and Address**. Each bid must be in a separate envelope. 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.

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 BIDDERS, Montgomery, Alabama, as required by Chapter 8 of Title 34, of the Code of Alabama, 1975. In addition, the Awarded Vendor, 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. **CONTRACTOR** 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 by visiting the following web address: www.FairhopeAL.gov.



**INVITATION TO BID
NO. 24-001
Cowpen Creek Boring**

**CITY OF FAIRHOPE
SHERRY SULLIVAN, MAYOR**

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**ITEM I
INVITATION AND INSTRUCTIONS TO BIDDERS**

1.00 BID INVITATION

Notice is hereby given that the **City of Fairhope (“CITY”)** will receive bids on the project described herein. Qualified **BIDDERS** are invited to bid on this CONTRACT.

1.01 BID NO.: 24-001
NAME: Cowpen Creek Boring

1.02 SUMMARY

The City of Fairhope is requesting responses from qualified contractors to bore and install 12”HDPE pipe at Cowpen Creek.

1.03 BID DEADLINE

Bids will be received until **2:00 P.M. local time, Thursday, October 5, 2023**, at the City Services and Public Utilities Building, 555 South Section St., Fairhope, Alabama, and publicly opened shortly thereafter.

1.04 AVAILABILITY OF DOCUMENTS

Bid Documents may be obtained on the City’s website at www.FairhopeAL.gov/departments/purchasing/bids or at the City Services and Public Utilities Building, 555 South Section Street, Fairhope, Alabama. One set of Bid Documents can be obtained free of charge.

1.05 INQUIRIES

Questions or comments pertaining to this bid must be presented in writing, sent as e-mail to the attention of the Purchasing Manager, Erin Wolfe, 555 South Section St., Fairhope, AL 36532, e-mail: Purchasing@FairhopeAL.gov, by Friday, September 29, 2023, at 11:00 A.M. or will be forever waived.

1.06 SITE EXAMINATION

There is no pre-bid meeting scheduled for this bid.

The City of Fairhope will not furnish any labor, material, or supplies unless specifically stated in the CONTRACT Documents. **BIDDERS** must be properly licensed to perform the work as outlined in the Scope of Work. Awarded Vendor must have a current business license or purchase a business license with the City of Fairhope prior to bid being awarded.

Except for CONTRACTS funded in whole or in part by funds received from a federal agency, preference shall be given to resident **BIDDERS** on the same basis as the nonresident **BIDDERS** state awards CONTRACT to Alabama **BIDDERS** 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-resident **BIDDERS** state of domicile as to preferences granted by that state to entities doing business in that state when letting public contracts.

1.07 BID SECURITY – NOT REQUIRED

1.08 PERFORMANCE ASSURANCE AND INSURANCE

Performance Bond and Labor & Materials Bond are not required.

The accepted **BIDDER** shall also provide insurance as required in ITEM V.

1.09 DURATION OF OFFER

Bids may be withdrawn in written or telegraphic request received from **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 bids without the consent of the City Council of the City of Fairhope.

1.10 EQUAL OPPORTUNITY

The City of Fairhope is an Equal Opportunity Employer and requires that all **BIDDERS** comply with the Equal Employment Opportunity laws and the provisions of the CONTRACT Documents in this regard. The City of Fairhope also encourages and supports the utilization of Minority Business Enterprises on this and all public bids.

1.11 BID SUBMISSION AND PREPARATION

Sealed Bids, signed, executed, and dated, will be received by the City of Fairhope as noted in section 1.03 above. Submit one copy of the executed offer on the Bid Form provided, signed, and with the required Bid Security. **The bid shall be enclosed in a sealed opaque envelope approximately 9x12 inches or larger, clearly identified on the outside as a SEALED BID with the BID NAME, BID NUMBER, CITY'S NAME AND ADDRESS, CONTRACTOR'S NAME AND ADDRESS.**

Forms furnished, or copies thereof, shall be used, and strict compliance with the requirements of the invitation, these instructions, and the instructions printed on the forms is 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 suitably filled in.

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**.

The Bid Form may have a Contingency Allowance listed. Add this amount to the Base Bid to derive the Total Bid. The Contingency Allowance covers unforeseen conditions and shall not be used by the **BIDDER** without the written authorization of the **CITY**. At the conclusion of the project, the unused portion of the Contingency Allowance shall revert to the **CITY**.

Each bid must give the full business address of the **BIDDER** and must be signed by him with his usual signature. Bids 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. 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 shall also be typed or printed below the signature. A bid 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 bid of the individual signing. When requested by the **CITY** satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.

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.

1.12 BID INELIGIBILITY

Bids that contain irregularities of any kind may be declared unacceptable at the discretion of the **CITY**. The **CITY** may waive any irregularities and may reject any or all bids. Bids received after the deadline will be returned to the **BIDDER** unopened.

1.13 INQUIRIES/ADDENDA

All Addenda are part of the CONTRACT Documents. Include resultant costs in the Bid. Addenda will be issued by E-MAIL and posted on the City's website: www.FairhopeAL.gov. It is the responsibility of the **BIDDER** to verify that all Addenda have been received.

Questions or comments pertaining to this bid must be presented in writing, sent via email Purchasing@FairhopeAL.gov by Friday, September 29, 2023, at 11:00 A.M. or will be forever waived.

1.14 BID ACCEPTANCE

Bid with 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 Bids accepted by the **CITY** shall be the accepted bid. Alternates shall be awarded in the order in which they are listed on the Bid Form.

1.15 BIDDERS INTERESTED IN MORE THAN ONE BID

If more than one bid 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 bids may be rejected. A party who has quoted prices on materials to a **BIDDER** is not thereby disqualified from quoting prices to other **BIDDERS** 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 **BIDDER**.

1.16 ERRORS IN BIDS

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.

1.17 CONTRACT AND BOND

The **BIDDER** 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 to him for signature.

1.18 COLLUSION

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**.

1.19 SUBLETTING OR ASSIGNING OF CONTRACT

Limitations: The CONTRACTOR shall not sublet, assign, transfer, convey, sell, or otherwise dispose of any portion 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 **BIDDER** of any responsibility for the fulfillment of the CONTRACT. Unless otherwise stipulated in the proposal or special provisions, the **BIDDER** 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 **BIDDER** with his own organization.

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.

1.20 **PROSECUTION OF WORK**

The **BIDDER** 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**.

Should the **BIDDERS** 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.

Should the **BIDDER** 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.

ITEM II
SCOPE OF WORK
Bid No. 24-001
Cowpen Creek Boring

SCOPE OF WORK:

The City of Fairhope is requesting responses from qualified contractors to bore and install 600' of 12"HDPE pipe at Cowpen Creek.

Work shall include, but not be limited to the following:

- Potholing all utilities in conflict with the proposed route.
- Fusion and testing of 600' of 12" HDPE.
- Drill and pullback of 500' bore under Cowpen Creek. The Drill under the creek must be 10' below the mud line of the creek.
- Disposal of excess drill mud.
- Air test of 12" HDPE.
- Fusion of MJ adapters on ends of bore after completion.

Contractor shall coordinate with City of Fairhope for required distance from bridge that the drill must be. Distance must be acceptable to Baldwin County.

City will provide:

- All materials for the project.
- All survey and layout.
- Permitting.

Mobilization cost shall be included in lump sum bid.

Contractor is solely responsible for the locating of all existing Utilities and Services. Failure of the Contractor to locate any utility does not justify additional payment to the Contractor if said utility is damaged. The Contractor must notify the utility companies involved prior to starting construction and shall make every effort not to damage any utilities. If utilities are damaged by the Contractor, the Contractor must pay all expenses incurred in the repair at no cost to the Owner or his representatives.

CRITICAL TIMELINES:

- 15-day Notice to Proceed Period
- Contractor is not limited to time of day or days of the week restrictions on this project – site available 24/7

GENERAL NOTES:

1. Contractor will be required to be Licensed, Bonded, and Insured. Documents will be required at time of bid/quote acceptance and issuance of purchase order.
2. Enclosed scope of work, descriptions, quantities, etc. are "good faith" estimates only. Prior to submitting quotations contractor should field measure and verify all quantities.
3. Bid Response will be treated and considered as "lump sum" bids for all described work.

**ITEM III
BID RESPONSE FORM**

Date: ____ / ____ / ____

Bid No: 24-001 Cowpen Creek Boring

Bids Due: Thursday, October 5, 2023, 2:00 P.M.

	DESCRIPTION	
1	Lump Sum Price for Cowpen Creek Boring as described in Scope of Work	

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

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

ADDENDUM NO.	DATE ISSUED	ADDENDUM NO.	DATE ISSUED
_____	_____	_____	_____
_____	_____	_____	_____

Each bid must give the full business address of the CONTRACTOR and must be signed by him with his usual signature. Bids 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. 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 shall also be typed or printed below the signature. A bid 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 bid 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 invitation to bid, 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. described in the bid documents and specifications. The undersigned also affirms he/she has not been in any CONTRACT or collusion among BIDDERS or prospective BIDDERS in restraint of freedom of competition, by CONTRACT to bid at a fixed price or to refrain from bidding or otherwise.

Witness our hands and seals this _____ day of _____, 2023.

If Individual or Partnership

(Name of Individual or Partnership)

(Name of Partner Print)

(Name of Representative Authorized to sign Bids and CONTRACTs for the firm Print)

(Name of Partner Print)

Address _____

Phone Number () _____ Fax Number () _____

E-mail address _____ Alabama Contractor's License No. _____

Foreign Entity ID (if outside of Alabama) _____

If Corporation or LLC

Company _____

State of Incorporation _____

Company Representative _____
(Representative Authorized to sign Bids and CONTRACTs for the firm Print)

Company Representative _____
(Representative Authorized to sign Bids and CONTRACTs for the firm Signature)

Address _____

Phone Number () _____ Fax Number(____) _____

E-mail address _____ AL Contractor's License No. _____

Foreign Vendor Id _____

BID PROPOSAL NOTARIZATION:

STATE OF _____ }

COUNTY OF _____ }

I, the undersigned authority in and for said State and County, hereby certify that _____,
as _____ respectively, of _____, 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 they executed the same voluntarily on the day the same bears date.

Given under my hand and Notary Seal on this _____ day of _____, 2023.

NOTARY PUBLIC _____

MY COMMISSION EXPIRES ____/____/____

**ITEM IV
CONTRACTOR INFORMATION**

This Section must be printed, completed, and turned in with your bid response to

**Bid No. 24-001
Cowpen Creek Boring**

Business Organization

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

Doing-Business-As Name of CONTRACTOR:

Principal Office Address:

LOCAL Telephone Number: _____ Toll- Free _____
LOCAL Fax Number: _____
Email address: _____
Website: _____

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 partnership is: General ___
Limited ___

Joint Venture Statement

If a Joint Venture, answer the following:

Date of organization: _____

Location of organization: _____

JV CONTRACT recorded? Yes ___ No ___

Contact: _____ Email _____

Phone _____ Fax _____

END OF CONTRACTOR INFORMATION SECTION

3.07 **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.

3.08 **Certificate 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

Such insurance as is afforded by the above policies covers the operations undertaken by the insured with respect to the construction of the project above designated. The insurance afforded by the above designated policies, specimen copies of which have been filed with the **CITY**, and to each of which is attached for following endorsement.

The insurer agrees with the insured as follows:

1. That it will furnish to said City of Fairhope a certificate of insurance in triplicate on a form approved for such purpose by said **CITY**, setting forth the pertinent information regarding the policy to which this endorsement is attached, for each project of said **CITY** to which the policy applies.
2. That it will attach to each said certificate of insurance executed copies of any endorsement other than this endorsement which are attached to said policy at the time said policy is issued, provided only that said endorsements affect the coverage of said policy in respect of operations involved in the construction of the projects of said **CITY** to which the policy applies.
3. That it will mail to the City Council of the City of Fairhope three executed copies of each endorsement subsequently issued to become a part of said policy provided only that endorsement affects the coverages of said policy in respect of operations involved in the construction of the project of said **CITY** which the policy applies, and provided further that such endorsement shall not be effective unless such notice is given to the **CITY** at the same time that notice thereof is given to the insured.
4. That it will mail to the City Council of the **CITY** of Fairhope at least ten days before the effective date thereof notice of cancellation of said policy, provided no cancellation shall be effective unless such notice is given to the **CITY**.

END OF INSURANCE REQUIREMENTS

ITEM VI



City of Fairhope
CONTRACT

This **CONTRACT** is made this _____ day of _____, 202___, by and between the City of Fairhope (hereinafter referred to as the "**OWNER**") and _____ (hereinafter referred to as the "**CONTRACTOR**"), for

Bid Number/Name

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. The **WORK** to be performed under this **CONTRACT** shall be commenced upon execution of this **CONTRACT** within number (DAYS) days of the date specified in the *Notice to Proceed* (NTP) to be issued to the **CONTRACTOR** by the **OWNER**, or its authorized representative. The work shall be completed, subject to authorized adjustments, within (DAYS) consecutive calendar days from and after the commencement date stipulated in said *Notice to Proceed*. Liquidated damages for non-completion of the work within this time limit will be assessed at the rate of (DOLLARS) per working day.
4. The **OWNER** shall pay the **CONTRACTOR** in current funds for the performance of the **WORK**, the **CONTRACT SUM** of _____ DOLLARS (\$ _____). This represents a **LUMP SUM** payment for performance of the **WORK**, which payment shall be issued after the Contract is fully performed and the **OWNER** has inspected the **WORK**.
5. **General Conditions**
 - a. **Indemnity:** The **CONTRACTOR** hereby agrees to indemnify and save harmless the **OWNER**, 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 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:** 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**.

6. 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**.

7. 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.

8. 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.

9. Insurance Requirements

See **ATTACHMENT B**

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. Scope of Work

See **ATTACHMENT B**

19. 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.

20. 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

 COMPANY NAME
 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**

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

THE CITY OF FAIRHOPE, ALABAMA

Sherry Sullivan, 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 SHERRY SULLIVAN, 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 _____, 202__.

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)

AL General Contractor License Major Categories

AL General Contractor Specialties

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)

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 _____ As
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 _____, 202__.

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____



ITEM VII

CITY OF FAIRHOPE

STANDARD TERMS AND 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 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, Subcontractors, 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 subcontractors 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. NONCONFORMING 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 Contract / Agreement / 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

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.

49. 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 for a period of Three (3) years after expiration of the Contract / Agreement / Purchase Order.

50. 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.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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 VIII

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 Definitions

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 a CONTRACT 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.

SUB-CONTRACTOR. 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 CONTRACTS 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 CONTRACT, 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 CONTRACT 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-BIDDERS 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.

END OF ALABAMA IMMIGRATION ACT CONTRACT REQUIREMENTS

ITEM IX

INVITATION SUMMARY

**Bid No. 24-001
Cowpen Creek Boring**

Bid Name:	Bid No. 24-001 Cowpen Creek Boring
Issue Date:	September 22, 2023
Certificate of Insurance Requirements:	See Item V
Deadline for Questions Date:	Friday, September 29, 2023, 11:00 A.M.
Bid Due Date:	Thursday, October 5, 2023, 2:00 P.M.
City Internet Site:	www.FairhopeAL.gov
SEALED Bid Response Copies to submit:	One (1) Original Paper Copy
Purchasing Department Contact for questions:	Purchasing@FairhopeAL.gov (251) 928-8003

END OF INVITATION SUMMARY