

**CITY OF TUSCALOOSA, ALABAMA**  
**CONTRACT DOCUMENTS**

**WALTER MADDOX, MAYOR**

**CITY COUNCIL OF TUSCALOOSA**

**Council Members:**

**Phyllis Odom  
Raevan Howard  
Cynthia Almond  
Lee Busby  
Kip Tyner  
Edwin Pugh  
Sonya McKinstry**

**Glenda Webb, City Attorney**

**PROJECT: As-Needed Trash Debris Removal**

**FILE NO.: A20-0853**

**FOR: Infrastructure and Public Services**

**(2020)**

STATE OF ALABAMA )  
TUSCALOOSA COUNTY )  
CITY OF TUSCALOOSA )

CITY OF TUSCALOOSA CONTRACT DOCUMENTS

SECTION ONE  
ADVERTISEMENT AND NOTICE FOR BIDS  
(2020)

Sealed bids will be received by the City of Tuscaloosa, Alabama, a Municipal Corporation, in the Council Chamber in the City Hall, 2201 University Boulevard, on the 24th day of August, until 2:00, p.m., o'clock, local time, and then publicly opened and read for the furnishing of all labor and material (where required) and equipment for performing a project according to the plans, details, specifications and Contract Documents.

Award of the contract will be made within forty-five (45) calendar days from the date of the bid opening.

**Special COVID-19 Requirements:**

Due to the recent events associated with the Coronavirus, the following requirements will be enforced during site visits, pre-bid meetings and the public bid opening:

1. All those attending the site visit, pre-bid meeting and bid opening shall comply with all Federal, State, and City of Tuscaloosa requirements associated with the virus COVID-19 (Coronavirus).
2. Face coverings that fully cover the nose and mouth are required for employees and public visitors on the premises of all City-owned and -operated facilities
3. Only one representative for a bidder shall attend the pre-bid meeting and bid opening.
4. All those attending any meeting shall be healthy and not display any symptoms of sickness.
5. All those attending any meeting shall sit 6'-0" apart from all others in the room.
6. Any individual not complying with any of these requirements will be asked to leave the premises immediately.

**1. The Project:**

A. The Project shall be known as As-Needed Trash Debris Removal and the general character of said project shall consist of the following: Supplemental Trash (Debris) Collection and Transportation as-needed to assist with weekly residential trash collection for a portion of the City's residential garbage customers. Contractor will work alongside City crews to complete the assigned routes on the assigned days

B. The approximate quantities of said Project are as follows: 20%-50% of the customer base to service, depending on the volume of trash being generated and the City's fleet and personnel resources available at the time.

C. Special instructions are as follows: There is a mandatory Pre-Bid Conference for this project. Refer to Item No. 4 of this Advertisement for Bids

D. The City will furnish the following: N/A.

E. Time of Contract: From the date stated in the Notice to Proceed, the Project time of construction is 365 consecutive calendar days. The City may extend the term of this project for up to two (2) successive periods of 365 days each. This extension shall occur automatically and without notice to the Contractor unless otherwise communicated to the Contractor by the City at least 30 days before the expiration of the 365-day

term. The term of this project will not be automatically extended if, at the then-current expiration of the term, Contractor is in material breach of the contract.

**2. Specifications:**

Specifications and all related Contract Documents are open for public inspection at the office of Infrastructure and Public Services, located at 2201 University Blvd., Tuscaloosa, Alabama 35401. The contact person for the project is Stacy Vaughn. They can be reached at [svaughn@tuscaloosa.com](mailto:svaughn@tuscaloosa.com) and 205-248-4900.

**3. Qualification of Bidders:**

- A. All bidders must be responsible, meeting the criteria and requirements set forth in the Instructions to Bidders and bid proposal.
- B. Prequalification of Bidders IS \_\_\_\_\_; IS NOT X required.  
If prequalification of bidders is indicated to be required by the preceding sentence, then written prequalification information is available for review at the same office where plans, specifications and Contract Documents are available.
- C. The City may not enter into a contract with a non-resident corporation or entity which is not qualified under State law to do business in the State of Alabama.
- D. All bidders shall possess all other licenses and/or permits required by applicable law, rule or regulation for the performance of the work.
- E. The City reserves the right to reject all bids and/or reject and rebid the Project should it determine the same is in the best interest of the City.

**4. Pre-Bid Conference:** MANDATORY Pre-Bid Conference IS X required for this Project. The MANDATORY Pre-Bid Conference will be held at the Tuscaloosa Environmental Services located at 3340 Kauloosa Avenue, Tuscaloosa, Alabama on Monday, the 17th day of August, 2020, at 10:00 a.m., local time.

**NOTE:** All bidders are advised to carefully read the Instructions to Bidders contained in the Contract Documents, which provisions and requirements are adopted herein by reference.

CITY OF TUSCALOOSA, ALABAMA,  
A MUNICIPAL CORPORATION  
Walter Maddox, Mayor

[END ADVERTISEMENT FOR BID—OFFICE OF THE CITY ATTORNEY]

CITY OF TUSCALOOSA CONTRACT DOCUMENTS  
SECTION TWO  
INSTRUCTION TO BIDDERS  
(2020)

**NOTE:** THIS DOCUMENT CONTAINS IMPORTANT BIDDING AND CONTRACTING INFORMATION.  
ALL POTENTIAL BIDDERS SHOULD READ IT THOROUGHLY

1. **Intention:** The Advertisement for Bids, Instruction to Bidders, Contract Agreement, any modifications or supplemental conditions to the Contract Agreement, Bid Proposal, and the Plans and Specifications are interrelated and apply to the complete work to which they relate.
2. **Definitions:** Where the following words, or the pronouns used in their stead, occur herein, they shall have the following meaning:

"Awarding Authority" shall mean the City of Tuscaloosa, Alabama.

"Bidder" shall mean any person, firm or corporation, that is responsible, submitting a responsive bid for the Project contemplated by the contract documents, who meets the requirements set forth in the contract documents, maintains a permanent place of business, has adequate forces and equipment to perform the work on the Project properly and within the time limit that is established, has sufficient experience in the type work provided for in the contract documents and has adequate financial status and resources to meet its obligations contingent to the work.

"City" or "Owner" shall mean the City of Tuscaloosa, Alabama, as the awarding authority or its authorized and legal representatives.

"City Representative" shall mean that person or entity employed by the City to provide City Representative services on the work or Project, who shall be the City's representative on the Project.

"Contractor" shall mean initially the successful or probable low bidder and then the party of the first part to the construction agreement or the legally authorized representatives of such party, including a trade contractor.

"Engineer/Architect" shall mean an Engineer or Architect responsible for design and related services on the Project, and if no City Representative is employed, then the Engineer is the representative of the City of Tuscaloosa, Alabama, on the Project. References to the "Engineer" shall mean the City Representative, if the City has employed such services, to the extent such services are applicable to construction management activity as set forth in the agreement between the City and the City Representative, and the context herein indicates that it would relate to services traditionally and customarily performed by a City Representative; otherwise, "Engineer" shall refer to the Engineer or Architect.

"Force Account Work" work paid for by reimbursing for the actual cost for labor, materials and equipment usage incurred in the performance of the work, as directed, including a percentage for overhead and profit where appropriate.

"Gender": a word importing one gender shall if appropriate extend to and be applied to the other gender. The masculine shall include the feminine and vice versa, unless the context clearly indicates otherwise.

"Inspector" shall mean a representative of the Engineer/Architect, City Representative or the City, as the case may be.

"Non-Resident Contractor" shall mean a contractor which is neither (a) organized and existing under the laws of the State of Alabama nor (b) maintains its principal place of business in the State of Alabama. A non-resident contractor which has maintained a permanent branch office within the State of Alabama for at least five (5) continuous years shall not thereafter be deemed to be a non-resident contractor so long as the contractor continues to maintain a branch office within Alabama.

"Project" shall mean the Public Work to which these Contract Documents relate, including the labor, materials and all work to be done by Contractor that is the subject of the bid, plans, specifications and contract documents.

"Public Property" Real property which the awarding authority owns or has contractual right to own or purchase, including easements, rights-of-way, or otherwise.

"Public Work(s)" shall mean a Project consisting of the construction, repair, renovation, or maintenance of public buildings, structures, sewers, water works, roads, bridges, docks, underpasses and viaducts, as well as any other improvement to be constructed, repaired or renovated or maintained on public property to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.

"Responsible Bidder" shall mean a bidder who, among other qualities determined necessary for performance, is competent, experienced and financially able to perform the contract.

"Responsive Bidder" shall mean a bidder who submits a bid that complies with the terms and conditions of the invitation for bids, including plans, drawings, specifications and other provisions of the contract documents.

"Retainage" shall mean that money belonging to the Contractor which has been retained by the awarding authority conditioned upon final completion and acceptance of all work in connection with the Project.

"Singular/Plural" the singular shall include the plural and vice versa, unless the context clearly indicates otherwise.

3. **Work to be Performed:** The City contemplates the project as generally described in the Advertisement for Bid and as more particularly described, shown and depicted on the plans, specifications, drawings and in the contract documents.

4. **Bidding, Generally:**

- A. All bids must be made upon the bid proposal forms contained in the contract documents, shall state the amount bid for each item as shown therein and all blanks shall be properly filled in and bid proposal executed as required.
- B. Any bidder may withdraw his or its bid, either personally or by telegraphic or written request (not by facsimile), at any time prior to the scheduled opening time for receipt of bids. Except as provided in Ala. Code §39-2-11(b)(c)(d), no bid may be withdrawn after opening of bids prior to the time of returning bid bonds as provided for herein.
- C. Any unauthorized conditions, limitations or provisos attached to the bid proposal, except as otherwise provided herein, will render a bid proposal informal and may cause its rejection. Unbalanced bids may be subject to rejection.
- D. All bids will be opened in public at the time and date specified in the Notice of Advertisement for bids, unless otherwise altered by addendum. All bidders are invited to be present at the opening of bids. No bids will be received after the time established for the opening of bids.

- E. All bids are to be enclosed in a sealed envelope addressed to the City of Tuscaloosa, P. O. Box 2089, Tuscaloosa, Alabama and/or hand delivered to the City Clerk, 2201 University Boulevard, City Hall, Tuscaloosa, Alabama. All bids are to be marked to indicate clearly the Project to which it applies and include the following language: "Bid Enclosed" and "Attention City Clerk."

5. **Responsible, responsive bidders:** The City reserves the right to reject any bid that is submitted by a bidder that is determined by the City to not be a responsible bidder or whose bid proposal is not responsive.

In determining whether a bidder or bid is responsible and/or responsive, the City reserves the right to also request and consider the following factors:

- A. Types or kinds of equipment, materials or items best suited to the City's needs for the Project.
- B. A current financial statement of the bidder and/ or bonding capability or limits.
- C. An accurate inventory of equipment to be used on the Project for a list of key personnel to be used on the Project and detailed histories of their experience.
- D. A list of similar work performed by any person, firm, or corporation with the same name as the name or any of the names in the bidder's proposal within the last five (5) years.
- E. A list of five (5) references familiar with the bidder's competence, experience, capabilities, skill and integrity.
- F. A statement of bidder pertaining to bankruptcies, judgments, liens or litigation within the last five (5) years. Such statement shall also apply to each company, officer and the key personnel on the Project.
- G. Bidder's license number and class.
- H. Bidder's performance and prosecution of past projects for the City.
- I. Other information supplied in the bid proposal.

The City may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any Proposal if the evidence submitted by, or investigation of, such Bidder fails to satisfy the City that such Bidder is properly qualified to carry out the obligations of the Contract and complete the work contemplated therein.

6. **Consideration of Bid Proposals:**

- A. Generally: The contract will be awarded to the lowest responsible and responsive bidder, unless the City determines that all the bids are unreasonable or that it is not in the best interest of the City to accept any of the bids. Award of the contract will be made on the basis of the lowest actual bid amount for the contract, which is defined as the total of the bid and/or extended total amounts for unit price items, plus requested and accepted additive or deductive alternates, pursuant to the provisions hereof. The City reserves the right to reject all bids and/or reject and rebid the Project should it determine the same is in the best interest of the City.
- B. Minor irregularities as determined by the City or its representatives, will not cause a bid to be non-responsive and may be waived by the City.
- C. Bidder must possess all licenses and permits required by applicable law, rule or regulation for the performance of the work prior to bidding.
- D. Where the City elects to prequalify contractors prior to bidding, it shall be understood that such prequalification may be general in nature and shall not limit the City's right to revoke such prequalification pursuant to Ala. Code §39-2-4(d) (1975).
- E. Joint ventures shall not generally be considered acceptable bids without special waiver from the City, which must be requested in writing at least thirty (30) days prior to bid opening.

- F. Additive and/or Deductive Alternates: If the City has elected to request bids for additive and/or deductive alternates, then the following procedure shall be the basis for calculating such bids:
- 1) Deductive Alternates: Any deductive alternate from the base bid shall constitute cumulative deductions from the base bid; and in determining the lowest bidder, if the City elects to consider any deductive alternates, the City will proceed to consider the bids upon the basis of the base bids of all qualified bidders minus the respective deduction stated for the first alternate. If the City determines that it wishes to proceed to consider additional deductive alternates, it may do so sequentially and in like manner throughout the deductive alternates the City elects, so that the base bids of all qualified bidders shall be calculated minus the respective number of deductive alternates in sequence the City has elected to consider. The lowest responsible responsive bid will be the lowest actual base bid of a qualified bidder less the selected sequential deductive alternates.
  - 2) Additive Alternates: To determine additive alternates, any additive alternate shall constitute cumulative additions to the base bid; and in determining the lowest bidder if the City elects to consider any additive alternates, the City will proceed to consider the bids upon the basis of the base bid of all bidders plus the respective addition stated for the first alternate. If the City determines that it wishes to proceed to consider additional additive alternates it may do so sequentially, and in like manner, throughout the additive alternates, the City elects, so that the base bids of all qualified bidders shall be calculated plus the respective number of additive alternates in sequence the City has elected to consider. The lowest responsible responsive bid will be the lowest actual base bid of a qualified bidder plus the selected sequential additive alternates. Once the City has determined the lowest responsible responsive bidder as set forth herein, then it may award the contract on the basis of accepting and/or rejecting any additive and/or deductive alternates of that bid as it determines is in the best interest of the City.
- G. No Bids or Only One Bid: In the event no bid proposals or only one bid proposal is received in response to the City's Advertisement for Bids at the time stated for the opening of bids, the City may elect at its discretion, any of the following options:
- 1) Advertise for and seek other competitive bids.
  - 2) Direct that the work shall be done by force account under its direction and control.
  - 3) Negotiate for the work through the receipt of informal bids. Provided; however, where only one responsible and responsive bid has been received, any negotiation for the work shall be for a price lower than that bid.
- H. An unbalanced bid.

**7. Execution of Contract, Notice to Proceed:** Award of the contract will be made within the time specified after the opening of bids.

Within twenty (20) days after presentation by the bidder to the City, the City shall review the bonds provided and evidence of insurance to ascertain whether they meet the requirements of the contract documents, and if such requirements have been met the City shall complete the execution of the contract.

A notice to proceed order will be issued by the City or its representatives within fifteen (15) days after final execution of the contract by the City. The Contractor shall begin work on the date specified in the Notice to Proceed.

**8. Labor, Material and Performance Bonds:** Within thirty (30) days after the prescribed forms have been presented, the successful bidder shall execute a performance bond with good and sufficient surety from a company duly authorized and qualified to make such bond in the State of Alabama, a performance bond made payable to the City of Tuscaloosa, with a penalty equal to 100 percent of the amount of the contract price and in addition thereto, another bond with good and sufficient surety by a surety company duly authorized and qualified to make such bond in the State of Alabama, payable to the City of Tuscaloosa, in an amount equal to 100 percent of the contract price

with an obligation that such contractor shall promptly make payments to all persons supplying it or them with labor, materials or supplies for or in prosecution of the Project provided for in such contract and for the payment of reasonable attorneys fees incurred by any successful claimants or plaintiffs in civil actions on said bond, pursuant to the provisions of Ala. Code §39-1-1 (1975).

**9. Surety and Insurer Qualifications:** All certificates of insurance and bonds (furnished in connection with the work to be performed under this contract) shall be countersigned by a licensed agent residing and engaged in doing business in the State of Alabama. The surety and insurer shall be licensed and authorized to do business in the State of Alabama. The surety companies on bonds shall be rated A- or better by A. M. BEST and listed on the United States Treasury Department 570 list.

**10. Power-of-Attorney:** The attorney-in-fact (resident agent) who executes the performance bond and/or payment bond on behalf of the surety must attach a notarized copy of his or her power-of-attorney as evidence of his authority to bind the surety of the date of execution of the bonds. Certification by a resident agent authorized to do business in Alabama is required.

**11. Insurance:** The successful contractor shall file with the City, at the time of delivery of the signed contract, satisfactory evidence of insurance, the requirements as set forth in the contract agreement. Satisfactory evidence of insurance shall include at a minimum, the insurers standard "Certificate of Insurance" (modified pursuant to insurance requirements of the contract agreement) and the agents verification of insurance as required by Section 26. If the City deems that additional evidence or clarification, etc., of insurance is appropriate, the bidder shall promptly furnish the same to the City upon request.

**12. Examination of Contract Documents:** Before submitting a bid proposal for the Project, each bidder shall carefully examine the Contract Documents, including but not limited to plans, drawings, specifications, contract, etc., visit the site, and satisfy itself as to the nature and location of the Project, and the general and local conditions, including weather, the general character of the sites or building, the character and extent of existing work within or adjacent to the sites, any other work being performed or proposed thereon at the time of submission of their bids. It shall obtain full knowledge as to transportation, disposal, handling, and storage of materials, availability of water, electric power, and all other facilities in the area which will have a bearing on the performance of the Project for which they submit their proposals. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and visit and has judged for and satisfied himself as to conditions to be encountered regarding the character, difficulties, quality, and quantities of work to be performed and the material and equipment to be furnished, and as to the contract requirements and contingencies involved. It shall be the Bidder's obligation to verify for himself and to his complete satisfaction, all information concerning site and surface conditions.

**13. Interpretation of Plans and Specifications:** If any bidder contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of plans, specifications, or other proposed contract documents, he may submit to the Engineer/Architect or City Representative, as the case may be, a written request for an interpretation thereof at least ten (10) days prior to bid opening. The bidder submitting the request will be responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by written addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of such documents. The City, City Representative or Engineer/Architect will not be responsible for any other explanations or interpretations of the proposed documents.

**14. In State Bidder Preference:** Pursuant to Ala. Code §39-3-5 (1975), in the letting of public contracts in which municipal funds are utilized, except those contracts funded in whole or in part with funds received from a federal agency, preference shall be given to resident contractors, and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Alabama public contracts only on the same basis as the nonresident bidders' state awards contracts to Alabama contractors bidding under similar circumstances; and resident contractors in Alabama, as defined in Ala. Code §39-2-12 (1975), be they corporate,

individuals or partnerships, are to be granted preference over non-residents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state of the domicile of the nonresident.

Nonresident bidders must accompany any written bid documents with a written opinion of an attorney-at-law licensed to practice law in such nonresident bidder's state of domicile, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that state in the letting of a public contract.

**15. Applicable Laws:** Each Bidder shall inform himself of, and the Bidder awarded a contract shall comply with, federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning minimum wage rates, the use of domestic products, U.S. steel and resident labor, non-discrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees and similar subjects. Certain statutory requirements are summarized immediately hereinafter. The attention of all bidders is called to the fact that the work will be subject to compliance with all applicable City building and technical codes and will be subject, in addition to all other inspections, to inspection by a representative of the City of Tuscaloosa Building Inspections Department.

**16. Special Conditions for Federally Funded Contracts.** If all or any portion of the Project to which this contract applies is funded in whole or in part by the proceeds of a grant from an agency of the United States Government, additional requirements for the Contractor exist. A summary of these requirements entitled, "Special Conditions for Federally funded Contracts," is attached hereto and made a part hereof. Bidder should contact the Engineer or City Representative to confirm the applicability of these requirements to the Project.

**17. Agent's Verification of Insurance.** This form or a letter equivalent from the Insurance Agent should be submitted with each Contractor's Bid, or in the alternative, Contractor may provide a copy of the insurance policy or policies reflecting the coverages required herein.

**18. Compliance with Immigration Law.** 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, to the extent allowed by Federal law.

**28. Compliance with Affordable Health Care Act.** By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal compliance laws pertaining to the Affordable Health Care Act. 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, to the extent allowed by Federal law.

**29. Compliance with the City of Tuscaloosa Minority Enterprise / Disadvantage Business Enterprise (MBE/DBE/WBE) Policy for Projects Over \$50,000.** The City of Tuscaloosa has voluntarily adopted a Minority / Disadvantaged Business Enterprise ("MBE/DBE/WBE") Program designed to encourage the participation and development of minority and disadvantaged business enterprises and to promote equal business opportunities to the fullest extent allowed by state and federal law.

It is the intent of the City to foster competition among contractors, suppliers, and vendors that will result in better quality and more economical services rendered to the City. Under this policy, the City of Tuscaloosa has established a goal of ten to twenty percent (10-20%) inclusion of minority and disadvantaged business enterprises for all services required to deliver City projects. In no case shall the stated percentage be the determining factor in contract awards. Rather, contractors must demonstrate a good faith effort to attain the desired percentage goal.

The Policy as adopted is entitled THE CITY OF TUSCALOOSA MINORITY ENTERPRISE / DISADVANTAGED BUSINESS ENTERPRISE (MBE/DBE/WBE) POLICY FOR PROJECTS OVER \$50,000, and is attached hereto as "Exhibit A" (the "Policy"). Contractors are encouraged read the Policy in its entirety, and must follow the instructions contained therein. **The Policy requires submission of various forms at specified times, and failure to do so may result in rejection of bid due to non-responsiveness.** Contractors shall work in coordination with the City of Tuscaloosa's Department of Infrastructure and Public Services:

Contact information is as follows:

Caramyl Drake  
Community Development Program Manager  
Infrastructure and Public Services—Administration  
City of Tuscaloosa  
Phone: (205) 248-5725  
cdrake@tuscaloosa.com

Questions about Policy requirements should be directed to the City of Tuscaloosa Office of the City Attorney at 205-248-5140.

**30. Compliance with Act 2016-312.** By signing this contract, the contracting parties affirm, for the duration of the agreement, that they are not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

[END INSTRUCTION TO BIDDERS—OFFICE OF THE CITY ATTORNEY]

CITY OF TUSCALOOSA CONTRACT DOCUMENTS  
SECTION THREE  
PROPOSAL (BID)  
(2020)

**NOTE TO BIDDER:** Use BLACK ink for completing this Proposal form.

To: \_\_\_\_\_

Address: \_\_\_\_\_

Project Title: As-Needed Trash Debris Removal

File No.: A20-0853

**BIDDER:** The name of the Bidder submitting this Proposal is \_\_\_\_\_

doing business at \_\_\_\_\_,

which is the address to which all communications concerned with this Proposal and with the Contract shall be sent.

Licensed, Class \_\_\_\_\_, Alabama General Contractor No.: \_\_\_\_\_ (Attach Copy)

Alabama General Contractor Specialty \_\_\_\_\_

Alabama General Contractor License Major Categories:

(1) \_\_\_\_\_ (2) \_\_\_\_\_

Bidder's contact person for additional information on this Proposal:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

**ADDENDA:** The Bidder hereby acknowledges that he has received Addenda No's. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (Bidder shall Insert No. of each Addendum received) and agrees that all addenda issued are hereby made part of the Contract Documents, and the Bidder further agrees that his Proposal(s) includes all impacts resulting from said addenda.

**UNIT PRICES:** Where the Project is bid in unit prices then Bidder agrees to perform the work in the stated quantities of the materials at the unit prices so bid, the cumulative total of which constitutes the base bid set forth below, and to accept as final payment for the work performed under this Project as herein specified the extension of each such unit price for the quantities actually installed in accordance with the following or attached unit price schedule.

Prices for mobilization and demobilization combined shall not exceed 5% of the total base bid unless a reasonable explanation is provided in writing with the bid and accepted by the Owner. Lump sum payments and unit

price bids for a single or lump sum payment may be spread over the course of the period of work until the line item is complete at owner's option.

The Bidder's unit price for materials listed is as including the payment of taxes (See Page 3) where applicable: (Attach additional sheets if required)

**BID SCHEDULE TO BE COMPLETED:**

UNIT PRICE PER EACH ACTIVATION OF THIS CONTRACT: \$ \_\_\_\_\_ PER ACTIVATION

UNIT PRICE PER CUBIC YARD\* : \$ \_\_\_\_\_

**\*PER PROJECT SPECIFICATIONS:** Provide a cost per cubic yard to include debris collection and transportation. The cubic yard price should include all costs for collection and transportation to and from and at the disposal site, but should not include any landfill tipping fees or ADEM costs

**BIDDER'S DECLARATION AND UNDERSTANDING:** The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the City, and that the Proposal is made without any connection or collusion with any person submitting another Proposal on this Contract.

The Bidder further agrees that he has checked and verified the completeness of the Contract Documents and that he has exercised his own judgment regarding the interpretation of subsurface information utilizing all pertinent data in arriving at his conclusions. The Bidder shall be fully responsible for any damages or liability arising out of his or his subcontractors pre-bid investigations.

The Bidder further declares that he has carefully examined the Contract documents for the Project and has checked and verified the completeness of the Contract Documents, that he has satisfied himself as to the specifications involved, including materials and equipment, and conditions of work involved. Bidder further declares that he is fully aware of the fact that the description of the work, quantities of work and equipment needed, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents. Bidder also declares that this Proposal is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Proposal.

The Bidder declares that he understands and agrees that the quantities shown in the Advertisement for Bids and in the Proposal are approximate only and are subject to either increase or decrease; and that should quantities be decreased, he also understands and agrees that payment will be made on actual work performed at the unit bid prices, and will make no claim for anticipated profits for any decreases in the quantities. Actual quantities will be determined upon completion of the work.

**START OF CONSTRUCTION AND CONTRACT COMPLETION TIME:** The Bidder further agrees to begin work on the date stated in the Notice to Proceed and to fully complete the work, in all respects, within the time specified in the contract documents for completion.

**EXPERIENCE OF BIDDER:** Unless advised by the awarding authority in the Advertisement for Bids that the same is not required, the Bidder submits the following list of at least three clients for whom projects involving performance of similar projects have been performed within the past 5 years.

1. \_\_\_\_\_  
Name of Client Telephone Number

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Street \_\_\_\_\_ City \_\_\_\_\_

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Facility \_\_\_\_\_ Size \_\_\_\_\_ Date \_\_\_\_\_

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Name of Engineer/Architect /Engineering Firm \_\_\_\_\_ Telephone Number \_\_\_\_\_

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2.

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Name of Client \_\_\_\_\_ Telephone Number \_\_\_\_\_

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Street \_\_\_\_\_ City \_\_\_\_\_

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Facility \_\_\_\_\_ Size \_\_\_\_\_ Date \_\_\_\_\_

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Name of Engineer/Architect /Engineering Firm \_\_\_\_\_ Telephone Number \_\_\_\_\_

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3.

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Name of Client \_\_\_\_\_ Telephone Number \_\_\_\_\_

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Street \_\_\_\_\_ City \_\_\_\_\_

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Facility \_\_\_\_\_ Size \_\_\_\_\_ Date \_\_\_\_\_

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Name of Engineer/Architect/Engineering Firm \_\_\_\_\_ Telephone Number \_\_\_\_\_

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**PERFORMANCE OF WORK BY CONTRACTOR:** The Bidder shall perform at least 50 percent of the work with his own forces (refer to the INSTRUCTIONS TO BIDDERS).

**SUBCONTRACTORS:** Unless the same information has been provided in the prequalification statement, the Bidder further certifies that if his bid is accepted, the following subcontracting firms or businesses will be awarded subcontracts for the following portions of the work:

Description of Work \_\_\_\_\_

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Name \_\_\_\_\_

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Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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Description of Work \_\_\_\_\_



Name of Corporation

(seal)

By \_\_\_\_\_

\_\_\_\_\_  
Title

Attest \_\_\_\_\_  
Secretary

\* \* \* \* \*

The Bidder declares that he understands and agrees that the quantities shown in the Advertisement for Bids and in the Proposal are approximate only and are subject to either increase or decrease; and that should quantities be decreased, he also understands and agrees that payment will be made on actual quantities installed at the unit bid prices, and will make no claim for anticipated profits for any decreases in the quantities. Actual quantities will be determined upon completion of the work.

Attached hereto is a (Bid Bond) or (Check) for the sum of \_\_\_\_\_ according to the conditions under "Instructions to Bidders" and provisions therein.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

BY: \_\_\_\_\_

\_\_\_\_\_  
Title

**(NOTE)** If the Bidder is a corporation, the Proposal shall be signed by an officer of the corporation; if a partnership it shall be signed by a partner. If signed by others, authority for signature shall be attached.

[ END OF BID PROPOSAL—OFFICE OF THE CITY ATTORNEY ]

STATE OF ALABAMA        )  
TUSCALOOSA COUNTY     )  
CITY OF TUSCALOOSA    )

CITY OF TUSCALOOSA CONTRACT DOCUMENTS

SECTION FIVE  
CONTRACT AGREEMENT  
(2020)

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, hereinafter sometimes called the CONTRACTOR, as party of the first part, and the CITY OF TUSCALOOSA, Alabama, a Municipal Corporation, hereinafter sometimes called the CITY or OWNER, as party of the second part,

W-I-T-N-E-S-S-E-T-H:

In consideration of the amounts herein named and of the mutual agreements and provisions herein contained, the Contractor and the City agree in regard to a project (hereinafter either the "work" or the "Project") as described in the Advertisement for Bids.

The Contractor will perform the work and/or construct the Project as well as furnish at his own cost and expense all labor, tools, equipment and transportation as are herein and in the Contract documents required to be furnished by the Contractor, and shall perform all the work in a manner and form required to perform the Project described in and shown on the contract documents as the same are hereinafter more specifically described and as provided by the plans, specifications and documents which are attached hereto and made a part hereof, as if fully set out herein and addenda together with all plans and drawings on file in the office specified below.

ARTICLE I. GENERALLY

A. **Contract Documents:** As used throughout the documents constituting the contract, the term "Contract Documents" shall mean and include the following: Advertisement for Bids, Addenda (if issued), the Instructions to Bidders, the Bid Proposal, the General Specifications, the Detail Specifications, Supplemental and Special Conditions (if attached), together with this Contract Agreement and any modifications, including change orders, if made, and the drawings, plans and profiles that are now on file in the office referred to in the advertisement, the Performance Bond and the Labor and Material Bond, executed by the Contractor in connection with this Contract and insurance requirements and certificates.

All such documents hereinabove enumerated are adopted herein by reference and constitute the Contract between the parties to the same extent as if each were set out in full in this agreement.

B. **Independent Contractor:** The Contractor enters into this Contract with the City as an independent contractor and, as such, agrees that neither the City nor its officers, agents, employees or inspectors shall be responsible for the acts or omissions of the Contractor, or any subcontractor, or any of the Contractor's or subcontractor's agents or employees, or any other persons performing any of the work pursuant to this Contract. The Contractor shall be solely responsible for controlling construction manner, means and techniques consistent with the contract documents, plans and specifications.

C. **Order of Precedence:** Should there be a direct conflict between the various elements of the contract documents to the extent that the same cannot be reconciled to be read *in para materia*, then precedence shall be given the same in the following order:

1. Subsequent modifications (change orders or amendments) to contract agreement after execution
2. Addenda (if issued)
3. Supplemental general conditions and special conditions (if included)
4. The Contract Agreement
5. General and technical specifications
6. Large Scale Drawings (if included)
7. Enlarged Plans (if included)
8. Plans (if included)
9. Instructions to bidders
10. Advertisement for bids
11. Proposal (Bid)
12. Purchasing Agent Appointment Agreement (if utilized)

Where more than one document relates to the same matter if both can be given reasonable effect both are to be retained. Written specifications will take precedence over drawings.

**D. Integration; Contract Terms and Construction:**

1. Integration: This Agreement, together with all documents which constitute the "Contract Documents," constitute the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. All understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.
2. Amendment in Writing: This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement or change order, in writing, properly executed by all of the parties.
3. Binding Effect: This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns.
4. Captions: The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.
5. Construction: This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.
6. Mandatory and Permissive: "Shall," "will," and "agrees" are mandatory; "may" is permissive.
7. Governing Laws: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.
8. Ownership of Contract Documents: The Contract Documents, and copies of parts thereof, are furnished and owned either by the City or the design professional. All portions of the Contract Documents, and copies of parts thereof, are the instruments of service for this Project. They are not to be used on other work and are to be returned to the City on request at the completion of the Project. Any reuse of these materials without specific written verification or adaptation by the City will be at the risk of the user and without liability or legal expense to the City or Engineer/Architect. Such user shall hold the City and Engineer/Architect harmless from any and all damages, including reasonable attorneys' fees, from any and all claims arising from any such reuse. Any such verification and adoption shall entitle the City to further compensation at rates to be agreed upon by the user and the City.

E. **Rules of Construction:** For the purposes of this contract, except as otherwise expressly provided or unless the context otherwise requires:

1. Words of masculine, feminine or neuter gender include the correlative words of other genders. Singular terms include the plural as well as the singular, and vice versa.
2. All references herein to designated "articles," "sections," and other subdivisions or to lettered exhibits are to the designated articles, sections and subdivisions hereof and the exhibits annexed hereto unless expressly otherwise designated in context. All article, section, other subdivision and exhibit captions herein are used for reference only and do not limit or describe the scope or intent of, or in any way affect this agreement.
3. The terms "include," "including," and similar terms shall be construed as if followed by the phrase, "without being limited to".
4. The terms "herein," "hereof," and "hereunder," and other words of similar import refer to this agreement as a whole and not to any particular article, section, other subdivision or exhibit.
5. All recitals set forth in, and all exhibits to, this agreement are hereby incorporated in this agreement by reference.
6. No inference in favor of or against any party shall be drawn from the fact that such party or such party's counsel has drafted any portion hereof.
7. All references in this agreement to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

F. **City Representative - Multiple Trade Contracts:** If indicated in the Advertisement for Bids, the City has elected to engage the services of a City Representative for the work on this Project. If so, the same will be indicated in the bid packages and special supplemental conditions will be attached in regard to trade contracts. Contractor, as one of the multiple trade contractors on the Project shall adhere to all terms and conditions of the contract documents, particularly the supplemental conditions regarding multiple trade or multiple prime contractors. Any provision of the general conditions in direct conflict with the supplemental conditions is superseded to the extent of the conflict. If using a City Representative format, then this shall be a multiple trade or multiple prime contract agreement subject to the supervision and direction of a City Representative, in accordance with the terms and provisions of the City Representative's agreement with the City, which agreement is adopted herein by reference.

G. **Coordination of Plans, Specifications, etc.:** The specifications, the plans, drawings and all supplementary documents are essential parts of the Contract, and requirements occurring in one are as binding as though occurring in all. They are intended to be comprehensive to describe and provide a complete work. In case of discrepancy, figured dimensions shall govern.

H. **Corrections of Plans, etc.:** Should any portions of the plans, specifications or drawings be obscure or in dispute, they shall be referred to the Engineer/Architect and he shall decide as to the true meaning and intent. The Engineer/Architect shall also have the right to correct any errors or omissions at any time when such corrections are necessary for the proper fulfillment of said plans and specifications.

I. **Taxes and Charges:** Except to the extent the City and the Contractor are utilizing a "Purchasing Agent Appointment agreement," Contractor shall withhold and pay all sales and use taxes and all withholding taxes, whether local, state or federal and pay all Social Security taxes and also all State Unemployment Compensation taxes, and pay or cause to be withheld, as the case may be, any and all taxes, charges, or fees or sums whatsoever, which are now or may hereafter be required to be paid or withheld under any laws. Pursuant to Ala. Code §39-1-3 (1975), Contractor shall be reimbursed for any additional severance, sales or uses taxes incurred as a result of an increase in such taxes during performance of the contract.

J. **Shop Drawings and Submittals.** The Contractor shall submit shop drawings, samples and submittals depicting or representing the construction of portions of the Project in accordance with the plans and specifications to the Engineer/Architect and if there is no Engineer or Architect on the Project, to the City representative. The Contractor shall pay for or the cost may be withheld from payments to the Contractor for more than two (2) reviews of the shop drawings, samples or submittals or similar element of work by the Engineer, Architect or City representative.

K. **Alabama Immigration Law.** 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, to the extent allowed by Federal law.

L. **Compliance with Affordable Health Care Act.** By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal compliance laws pertaining to the Affordable Health Care Act. 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, to the extent allowed by Federal law.

M. **Compliance with Act 2016-312.** By signing this contract, the contracting parties affirm, for the duration of the agreement, that they are not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

## ARTICLE II. PAYMENTS, CLAIMS AND CHARGES, ETC.

A. **Contract Price:** The City will pay and the Contractor will accept in full consideration for the performance of the work/Project, subject to additions and deductions (including but not limited to liquidated damages) as provided in the contract documents and herein, the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) and/or in unit prices as shown in Bidder's schedule for the base bid amount of \$ \_\_\_\_\_, being the amount of the Contractor's bid as awarded by the City.

B. **Estimated Quantities and Unit Prices:** If award was made in whole or in part based upon unit prices, the Contractor agrees that the prices given in the Proposal are unit prices. The estimated quantities as stated in the Advertisement for Bids and in the Proposal and as indicated on the plans or in other places are approximate only, are subject either to increase or decrease and are only for the purpose of comparing on uniform basis the bids offered for the Project under this contract. The Contractor further agrees that should the quantities of any of the items of the work be increased, he will do the additional work at the unit prices set out in the Proposal and should the quantities be decreased, payment will be made on actual quantities at the unit prices and he will make no claim for anticipated profits for any decrease in the quantities. Actual quantities will be determined upon completion of the Project.

C. **Overtime Work by Contractor:** If the Contractor for his convenience and at his own expense should desire to carry on his work at night or outside regular hours, he shall submit written notice to the Engineer/Architect and he shall allow ample time for satisfactory arrangements to be made for inspecting the work in progress. At no time shall the notice be given less than 24 hours before such overtime work is started. The Contractor must obtain, through the Engineer/Architect, the City's approval for work at night, on Saturdays, Sundays or legal holidays. The Contractor shall light the different parts of the Project as required to comply with all applicable federal and state regulations and with all applicable requirements of the City.

Overtime hours shall be considered any hours worked by the Contractor on Saturday, Sunday and legal holidays, which in the Engineer/Architect's opinion requires the Engineer/Architect's resident observers' presence to observe such overtime work. Overtime hours requiring the presence of City inspectors shall be considered any hours worked by the Contractor in excess of eight (8) hours during any working day and/or in excess of forty (40) hours

from Monday through Friday and/or any time on Saturday, Sunday or legal holiday. In general, it should be expected that the Engineer/Architect's resident observer(s) or City's inspectors will be present at all times that the Contractor is working.

If the Contractor elects to schedule and perform overtime work, the Contractor shall pay the City for the City's resident inspector's salary plus costs for each hour of overtime work. Overtime shall be rounded up to the nearest whole hour. This amount shall include the inspector's salary at overtime rate, labor additive, which includes insurance, social security, workmen's compensation, sick pay, paid holidays, vacation pay and his vehicle and equipment. Payment to the City shall be made by a deduction from the Contractor's monthly payment invoice for any overtime worked.

**D. Payments on Account/Payments Withheld/Retainage:** Upon presentation of a verified application for payment, which shall include a "Contractor's Affidavit of Payment of Debts and Claims," AIA Form G706 or equivalent, then usually by the fifteenth (15<sup>th</sup>) day of each calendar month or as soon thereafter as is practical, as the Project progresses, the City shall make partial payments to the Contractor of the billable work performed less payments already made and less deductions for any incomplete, unaccepted or defective work. In making partial payments to the Contractor, there shall be retained five (5%) percent of the estimated amount of work done and value of materials stored on the site or suitably stored and insured off-site. Provided; however, after fifty (50%) percent of the Project has been satisfactorily completed, no further retainage will be withheld.

Retainage shall be held until final completion and acceptance of all work covered by the Contract Documents unless escrow or deposit arrangements are agreed to by the City. When maintenance periods are included in the Contract Documents covering highways, bridges or similar structures, such period shall be considered a component part of the contract and retainage will be held until the expiration of such periods.

On completion and acceptance of each separate building, public work or other separately identifiable and complete division of the Project in regard to which a separate price has been stated in the Contract Documents or can be separately ascertained, payment may be made in full including retainage but less deductions. Provided; however, the City will not consider making such payment on any such item of work if it is an integral part of a complete project.

All materials and work covered by partial payments as provided for herein shall become the sole property of the City; provided, however, the Contractor shall not be relieved from the sole responsibility for the care and protection of materials and work upon which payments have been made and for the restoration of any damaged work.

The City may also withhold from time to time from payment to the Contractor such an amount or amounts as may be necessary to pay and fully satisfy all claims and demands for labor and services rendered in and about the Project, including any such amount or amounts due to be paid to or by any subcontractor or supplier, amounts for City's or Engineer/Architect's observers or inspectors for contractors' overtime as herein provided, or for engineering or design services associated with Contractor initiated change orders or submittals in excess of that permitted herein. The Contractor hereby authorizes the City as its agent, to apply such amounts so withheld to the payment of any amount so due to be paid and all other just and lawful claims other than claims for damages for tort. In case of disagreement with reference to any such claim or claims, the City may keep such amounts so withheld on account of such claim or claims until such disagreement is finally settled and determined.

In addition, the City may also withhold payment of the whole or any part of a verified or approved application for payment from the Contractor to such an extent as may be necessary to protect itself from loss on account of any of the following causes discovered subsequent to its verification or approvals:

1. Defective work.

2. Evidence indicating probable filing of claims by other parties against the Contractor.
3. Failure of the Contractor or subcontractor to promptly make payments to subcontractors or for materials, labor, food stuffs and supplies.
4. Damage to another contractor under separate contract with the City.
5. Assessment of liquidated damages.

When the above grounds are removed, applications for payment will then be verified and/or approved for amounts not previously verified and approved because of them.

The Contractor shall not attempt to withdraw at any time during the term of this contract or any extensions thereof, without the expressed written consent of the City, the whole or any part of the amounts so retained by the City from payments due the Contractor by the establishment of an escrow account or by depositing securities in lieu thereof, pursuant to Ala. Code §39-2-12(e) or (f), or any amendments thereto or any equivalent law, ordinance or regulation. It is expressly agreed between the parties hereto that should the City elect not to consent to the same, then the Contractor shall not elect to, attempt to or in any manner endeavor to withdraw such retained amounts.

**E. Claims for Extra Cost:** If the Contractor claims that any instructions by drawings or otherwise involve extra cost or any extension of time, he shall notify the City in writing within ten (10) days after the receipt of such instructions and in any event before proceeding to execute the Project. Thereafter, the procedure shall be the same as that for change orders. No such claim shall be valid unless made in accordance with the terms of this section. There shall be no damages for delay.

Except as otherwise herein provided, no charge for any extra work will be allowed unless the same has been duly authorized in writing by the City and the price stated in such order.

**F. Differing Site Conditions:** If, in the performance of the Contract, subsurface or latent conditions are found to be materially different from those indicated by the plans and specifications, or unknown conditions of an unusual nature are disclosed differing materially from conditions usually inherent in work of the character shown and specified, the Contractor shall immediately notify the Engineer/Architect in writing regarding such conditions but in no event later than forty-eight (48) hours after discovery of such conditions by the Contractor.

The written notice shall describe the conditions, and other pertinent information, in no event shall such notice be later than forty-eight (48) hours before such conditions are disturbed. Upon such notice, or upon such observation of conditions, the Engineer/Architect will promptly make such changes in the plans and/or Specifications as he finds necessary (if any are necessary) to conform to the different conditions, and any increase or decrease in the cost of the Project resulting from such changes may be adjusted as provided under Change Orders or Claims for Extra Cost as set forth in the Contract documents.

**G. Change Orders:** Change orders shall be allowed only under the following conditions: 1) Minor changes for a total monetary amount less than that required for competitive bidding; or 2) Changes for matters incidental to the original contract necessitated by unforeseeable circumstances arising in the course of work under the contract; or 3) Changes due to emergencies; or, 4) Changes provided for in the original bidding and original Contract Documents as alternates; 5) Changes of relatively minor items not contemplated when the plans and specifications were prepared and the Project was bid and which are in the public interest and generally do not exceed 10 percent of the Contract Price, subject to Alabama Bid Law exceptions.

The Contractor or successful bidder is expected to complete the Project as bid and specified within the financial parameters stated therein. However, if it shall be determined that a change order condition possibly exists in any given case during the performance of the contract, the Contractor shall promptly notify in writing the representative of the City and shall not implement such change until having notified the representative of the City. If the change is minor in the opinion of the representative of the City and does not involve, 1) an adjustment in the

contract sum or construction bid price, or 2) result in extension of the contract time, or 3) a material change in the contract scope of services, then the City representative may authorize the change in writing to the Contractor. The Contractor shall not perform such change until receipt of such written change order.

In the event the change order requested by the Contractor involves, 1) an increase in the contract sum or construction bid price, 2) extend the contract time, or 3) materially change the Contractor's scope of work or services, then the Contractor shall request a change order in writing and present the same to the City representative. The representative of the City, shall determine whether this is a change order which can be allowed and, if so, what exception it would fall under. The representative of the City shall then document the same, attach the same to the Contractor's request for a change order and submit the same with his recommendation to the City Council at its next or any subsequent regularly scheduled Council meeting for approval.

The City reserves the right to institute change orders as the Owner pursuant to the aforesaid terms and conditions.

In no event is a change order to be executed by the Contractor prior to approval thereof by the City, except for emergencies.

**H. Determination of Adjustment of the Contract Sum:** The adjustment of the Contract Sum resulting from a change in the Work shall be determined by one of the following methods as determined by Owner:

1. By mutual agreement to a lump sum based on or negotiated from an itemized cost proposal from the Contractor.
2. Additions to the Contract Sum shall include the Contractor's direct costs plus a maximum 15% markup for overhead and profit. Where subcontract work is involved, the total mark-up for the Contractor and a subcontractor shall not exceed 25%. No allowance for overhead and profit shall be figured on a change which involves a net credit to the Owner. For the purposes of this method of determining an adjustment of the Contract Sum, "overhead" shall cover the Contractor's indirect costs of the change, such as the cost of bonds, superintendent and other job office personnel, watchman, job office, job office supplies and expenses, temporary facilities and utilities, and home office expenses.

**I. Construction Schedule and Periodical Estimates:** Immediately after execution and delivery of the contract and before the first partial payment is made, the Contractor shall deliver to the City and Engineer/Architect and City Representative, a construction schedule in a form satisfactory to the City or City Representative, which may include CPM for all major trades, showing the proposed dates of commencement and completion of each of the various activities, of work required under the Contract documents, the interrelationship of each activity, sequences, resources for each and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish (1) a detailed estimate giving a complete breakdown on the contract price and (2) periodical itemized estimates of the work done for the purpose of making partial payments, however the same will not be considered as fixing a basis for additions to or deductions from the contract price. Scheduling is particularly critical if Contractor is a trade contractor and adherence to the City Representative progress schedule is required.

**NOTE:** Depending upon the complexity of the work the City may require CPM or equivalent meeting all criteria above.

**J. Sales and Use Tax Savings:** Pursuant to the invitation for bids, sales and use taxes are not to be included in the bid. The project will be administered in compliance with the State of Alabama Act 2013-205, Certificate of Exemption from Sales and Use Tax for Governmental Entities, regarding sales and use taxes. The Contractor shall be responsible for obtaining a certificate of exemption from the Alabama Department of Revenue for purchases of

materials and other tangible property made part of the project. Any subcontractors purchasing materials or other tangible personal property as part of the project shall also be responsible for obtaining a certificate of exemption. The estimate sales and use tax saving must be accounted for on the bid proposal. Failure to provide the estimated sales and use tax savings may render the bid as non-responsive. Other than determining responsiveness of the bid, sales and use tax accounting shall not affect the bid pricing nor shall be considered in the determination of the lowest responsible and responsive bidder

### ARTICLE III. TIME

A. **Time for Completion/Delays:** The Contractor hereby agrees to start the term of this contract on the date to be specified in a written "Notice to Proceed" of the City Representative or thirty (30) days from the date of contract execution if no notice is issued, and to fully complete the Project within 365 consecutive calendar days thereafter. If this is a trade contract, then the Contractor shall perform within the time periods and at the times as established by the City Representative's approved construction schedule for the project. The Contractor further agrees to pay to the City, liquidated damages for each consecutive calendar day thereafter as hereinafter provided. Time is of the essence and a material element to this agreement.

Except to the extent (if any) otherwise provided in this Agreement, City may extend the term of this Agreement (subject to the "Termination" sections below), on the same terms and conditions as in effect just before the then-current end of the term, for up to two (2) successive periods of 365 days each. This extension shall occur automatically and without notice to the Contractor unless otherwise communicated to the Contractor by the City at least 30 days before the expiration of the 365-day term. The term of this Agreement will not be automatically extended if, at the then-current expiration of the term, Contractor is in material breach of this Agreement.

**NOTE:** When maintenance periods are included in the contract for highways, bridges or similar structures, such periods shall be considered component parts of the contract. To the extent the construction schedule contains "float," the parties agree that the same belongs to the Project and may be utilized by either party.

**Delay:** If the Contractor is delayed at any time in the progress of work by any of the following causes, the Contractor may be entitled to a reasonable extension of time as determined by the City in which to complete the Project. Provided, however, no such delay nor the extension of time if granted shall be grounds for a claim by the Contractor for damages or for additional cost, expenses, overhead or profit or other compensation:

1. Fires, abnormal floods, tornadoes or other cataclysmic phenomenon of nature.
2. Strikes, embargoes, lockouts, war, acts of public enemy.
3. Change orders.
4. Acts of performance or delays in performance by other contractors employed by the City or their subcontractors.
5. Causes beyond the control of the Contractor.

Provided further, that the Contractor shall immediately give notice in writing to the City and follow extension of time procedures as provided for herein. The City expressly disclaims any liability to Contractor for any cost, expense or damage caused by other contractors, subcontractors or suppliers, including those engaged by the City. The City shall not be liable for damages or cost to the Contractor sustained due to any interference from utilities or appurtenances or from the operations of relocating the same.

B. **Right of the City to Terminate Contract:** If the Contractor should be adjudged as bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for the Contractor or any of its property, or if it should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or if it should refuse or fail to make prompt payment to persons supplying labor for the Project under the Contract, or

persistently disregard instructions of the Engineer/Architect or fail to observe or perform any provisions of the Contract documents, or fail or neglect to promptly prosecute or perform the Project in accordance with the contract documents or otherwise be guilty of a substantial violation of any provision of the Contract documents, then the City may, on giving at least thirty (30) days' written notice to the Contractor, without prejudice to any other rights or remedies of the City in the premises, terminate the Contractor's right to proceed with the Project. In such event, the City may take over the Project and prosecute the same to completion, by contract or otherwise, and the Contractor and its sureties shall be liable to the City for any and all excess cost occasioned to the City thereby, including attorney's fees; and in any such case, the City may take possession of and utilize in completing the Project such appliances and plant of the Contractor or its subcontractors as may be on the site work and necessary or useful thereof. In the event of termination, the same shall not relieve the Contractor nor any of its sureties of their obligation pursuant to this agreement. In the event it becomes necessary for the City to maintain any legal action against the contractor, to enforce its rights herein, the Contractor shall pay the City all expenses associated therewith including a reasonable attorney's fee.

Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by Owner; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit.

C. **Liquidated Damages:** Should the work under this contract not be completed within the time specified, scheduled or as extended, it is understood and agreed that there may be deducted by the City or Engineer/Architect from the partial and/or final payments to the Contractor or otherwise charged to the Contractor, a sum computed at the rate of Five Hundred Dollars (\$500.00) per day beginning from the stated or extended date of completion and continuing for so long as the Project remains incomplete. It is understood and agreed that the above deduction is not a penalty, but money due to reimburse the City/Owner for inconvenience and damage to the general public, due to the delay in the completion of the Project and is reasonable. The collection of liquidated damages by the City shall not constitute an election or waiver by the City of recovery of additional delay or non-delay related damages from the Contractor, and the City expressly reserves the right to recover actual damages for other harms resulting from delay. The provisions of the liquidated damage clause shall apply and continue to apply even if the Contractor terminates or abandons the Project prior to the scheduled completion dates.

The amounts of such liquidated damages and actual damages incurred by reason of failure to complete the work stipulated in the Contract are hereby agreed upon as reasonable estimates of the costs which may be accrued by the City. It is expressly understood and agreed that these amounts are not to be considered in the nature of penalties, but as damages which have accrued against the Contractor. The City shall have the right to deduct such damages from any amount due, or that may become due the Contractor, or the amount of such damages shall be due and collectible from the Contractor or Surety.

#### **ARTICLE IV. WORK AND MATERIALS**

A. **Cooperation of Contractor:** The Contractor shall have available on the job site, at all times, at least one (1) copy of the plans and specifications if prepared for the Project.

He shall give the Project the constant attention necessary to facilitate the progress thereof and shall cooperate with the City, Engineer/Architect and with other Contractors in every way possible. The Contractor shall at all times have a superintendent, capable of acting as his agent on the Project, who shall receive communications

from the Engineer/Architect or his authorized representatives or the City's authorized representative. The superintendent shall have full authority to give and execute orders relating to the Project without delay and to promptly supply such tools, plant equipment, materials and labor as may be required.

The City reserves the right to utilize its own forces on the site or those of another contractor and to communicate through its representative directly with the Contractor.

B. **Superintendence:** The Contractor shall assign to and keep at the Project site competent supervisory personnel. The Contractor shall designate, in writing, before starting work, an authorized representative who shall be an employee of the Contractor and shall have complete authority to represent, to receive notice for, and to act for the Contractor. The Contractor shall not permit or allow any work to be conducted upon the Project site without the presence of supervisory personnel. The Engineer/Architect shall be notified in writing prior to any change in superintendent assignment. Using his best skill and attention, the Contractor shall give efficient supervision to the Project. The Contractor shall be solely responsible for all construction means, methods, techniques, and procedures, for providing adequate safety precautions, and for coordinating all portions of the Project under the Contract. It is specifically understood and agreed that neither the Engineer/Architect nor the City shall not have control or charge of and shall not be responsible for the construction means, methods, techniques, or procedures, or for providing adequate safety precautions in connection with the Project under the Contract.

C. **Contractor's Tools and Equipment:** The Contractor's tools and equipment used on the Project shall be furnished in sufficient quantity and of a capacity and type that will adequately and safely perform the work specified, and shall be maintained and used in a manner that will not create a hazard to persons or property, or cause a delay in the progress of the Project.

D. **Furnishing Labor and Equipment:** The Contractor shall furnish and pay for all equipment, labor and supervision, and all such materials as required to be furnished in the Notice to Bidders and as may other-wise be necessary to the completion of the Project and the operation of each construction crew required.

E. **Employees:** The Contractor shall employ only competent, skillful workers on the Project, and whenever any person shall appear to be incompetent or to act in a disorderly, unsafe improper manner, such person shall promptly be removed from the Project by the Contractor.

F. **Materials and Appliances:** Unless otherwise stipulated, the Contractor shall provide and pay for all other materials, water, heating, lighting, fuel, power, transportation, machinery, appliances, telephone, sanitary facilities, temporary facilities and other facilities and incidentals necessary for the execution and completion of the Project.

The Contractor warrants to the City that, unless otherwise specified, all materials and equipment furnished under this contract shall be new, and both workmanship and materials shall be of good quality, free of faults and defects, and in conformance with the Contract Documents. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials. In selecting and/or approving equipment for the Project, the City does not assume responsibility for injury or claims resulting from failure of the equipment to comply with applicable federal, state, and local safety codes or requirements, or the safety requirements of a recognized agency, or failure due to faulty design concepts, or defective workmanship and materials. Material and/or equipment damaged by flooding or other causes during the construction period shall be subject to rejection by the City; reconditioning and/or repairing material and/or equipment is not acceptable.

G. **Protection of Work and Property:** The Contractor shall at all times adequately maintain, guard and protect his own work from damage, and safely guard and protect private, commercial, industrial, the City's and others' property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury or loss, except such as may be directly due to errors in the plans or specifications or caused by agents or employees of the City.

The Contractor shall protect all existing vegetation such as trees, shrubs, and grass on or adjacent to where the Contractor is operating and be responsible for all damaging of trees and shrubs or grassed areas, including damage due to careless operation of equipment.

H. **Protection of Existing Utilities.** Contractor shall be responsible for any damage to existing structures or the interruption of any utility services which shall be repaired or restored promptly by and at the expense of the Contractor.

I. **Safety:** The completed Project shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items as may be appropriate or required by law. Further, any feature of the Project (including City-furnished or City-selected equipment) subject to such safety regulations shall be fabricated, furnished, and installed in compliance with these requirements. Contractors and manufacturers of equipment shall be held responsible for compliance with the requirements included herein. Contractors shall notify all equipment suppliers and subcontractors of the provisions of this Article.

In selecting and/or accepting equipment for installation in the Project, the City does not assume responsibility for any personal injury, property damage, or any other damages or claims resulting from failure of the equipment to comply with applicable safety codes or requirements, or the safety requirements of a recognized agency, or failure due to manufacturer's faulty design concepts, or defective workmanship and materials. The Contractor shall indemnify and hold the City and its City employees harmless against any and all liability, claims, suits, damages, costs, or expenses without limitation arising out of the installation or use of such equipment.

The Contractor shall take all necessary precautions for the safety of employees on the Project and shall comply with all applicable provisions of federal, state, and municipal safety laws to prevent accidents or injury to persons on or about or adjacent to the operations where the Project is being performed.

Machinery, equipment and all hazards shall be guarded or eliminated in accordance with the State Accident Prevention in Construction provisions to the extent that such provisions are not in contravention with applicable laws.

The Contractor shall do whatever work is necessary for safety and be solely and completely responsible for conditions of the jobsite, including safety of all persons (including but by no means limited to the public, site personnel, visitors, or employees) and property during the Contract period. The contract period shall include any subsequent warranty or other period associated with Project deficiency or repair and all hours including, and in addition to, normal working hours.

Safety provisions shall conform to the Federal and State Departments of Labor and the Occupational Safety and Health Act (OSHA), and all other applicable federal, state, county, and local laws, ordinances, codes, the requirements set forth herein, and any regulations that may be specified in other parts of these Contract Documents. Where any of these are in conflict, the more stringent requirement shall be followed. The Contractor's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The Contractor shall at all times provide proper facilities for safe access to the work by authorized government officials (federal, state, county and local) and representatives of the Owner.

J. **Responsibility to Act in Emergency:** In case of an emergency which threatens loss or damage to property, and/or safety, the Contractor shall act, without previous instructions from the City or Engineer/Architect, as the situation may warrant. The Contractor shall notify the Engineer/Architect thereof immediately thereafter. Any claim for compensation by the Contractor, together with substantiating documents in regard to expense, shall be submitted to the City through the Engineer/Architect. The claim will be handled in accordance with the provisions for

extra work. However, if the emergency is created or aggravated by the Contractor, he shall be liable for the resulting damages. If the Contractor fails to take necessary action as required by such an emergency, the City may assign another Contractor or use his own forces to perform the emergency work. Costs or damages arising from the failure of the Contractor to act in an emergency may be deducted from the Contractor's request for payment.

K. **Sanitary Regulations:** The Contractor shall provide and maintain such sanitary accommodations for the use of his employees and those of his subcontractors as may be necessary to comply with the requirements and regulations of the local and State Department of Health. At a minimum, necessary sanitary conveniences for the use of the laborers on the work shall be erected and maintained by the Contractor, in such a manner and at such points as shall be approved by the Engineer/Architect. Their use shall be strictly enforced. In the City Representative format, the City may provide sanitary accommodations through the City Representative.

L. **Environmental Clause/Covenant.** Contractor shall not allow any toxic, hazardous or contaminated substances or gases (including, but not limited to, asbestos and raw materials which include hazardous constituents or any other similar substances or materials which are included under or regulated by any local, state, or federal law, rule or regulation pertaining to environmental regulations, contamination, clean-up or disclosure such as, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"); the Clean Air Act (42 U.S.C. Sec. 7401 et seq.); the Clean Water Act (33 U.S.C. §1251 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.); and the Toxic Substances Control Act (42 U.S.C. §2601 et seq.) or state environmental clean-up or disclosure acts and statutes as all such acts and statutes exist now or are hereafter amended (such acts and statutes referred to herein as "Environmental Laws")(such substances or gases referred to herein as 'Hazardous Substances') to be stored, located, or discharged on the premises without specific prior written consent of the City. Contractor shall comply with all Environmental Laws affecting the premises. Contractor covenants to hold the City, its officers, agents and employees harmless from and against any loss, costs, damage or expenses (including attorney's fees and expenses) arising out of the presence of Hazardous Substances (as hereinbefore described) on or about the premises or the violation of any Environmental Laws with respect thereto, the occurrence of which Hazardous Substances on the premises or the violation of any Environmental Laws shall have arisen solely from the acts or omissions of Contractor, its subcontractors, agents, invitees and employees. This indemnity shall survive the termination of this contract and shall inure to the benefit of the City of Tuscaloosa, its successors and assigns.

## ARTICLE V. INSURANCE, LIABILITY, ETC.

### A. Contractor's Insurance (Generally):

1. Insurance Required. The Contractor shall not commence work under this contract until it has obtained all insurance required by the Contract documents and such insurance has been accepted by the City. The Contractor shall maintain the required insurance during the term of the contract including any extensions of the term.

Insurance shall be written in comprehensive form by insurance companies rated A- or better by A. M. BEST and shall protect the Contractor and the City against claims for injuries to members of the public (including City employees) or damages to property of others (including City property) arising out of any act of the Contractor or any of its agents, employees or subcontractors and shall cover both on-site and off-site operations under this contract and insurance coverage shall extend to any motor vehicles or other related equipment, irrespective of whether the same is owned, non-owned or hired.

The obtaining and maintaining by Contractor and subcontractors of the insurance required herein does not relieve the Contractor of any responsibilities, obligations or duties to the City pursuant to this contract.

2. Additional Insurance. The Contractor shall have an insurance professional review the Contractor's activities in regard to the performance of this contract and the Contractor shall obtain any further or additional insurance or greater limits as recommended by the insurance professional.

3. Insurance Limits. Neither the setting of insurance limits or requirements nor the acceptance or approval of the same by the City imply or represent that the limits or the insurance carrier is sufficient or that such insurance actually has been obtained, that being the responsibility of the Contractor.

4. Subcontractors. The Contractor shall require all subcontractors to take out and maintain the type of insurance required herein to the extent of their involvement in the Project so as to be adequate to protect against liability. In the event any work under this Contract is performed by a subcontractor(s), the Contractor shall remain responsible for any liability directly or indirectly arising out of the work performed under this Contract, regardless of whether or not such work is covered by the subcontractor's insurance. The Contractor shall not allow any subcontractor to commence work on the project until all similar insurance required of the subcontractor has been obtained. All subcontractors shall maintain required insurance during the term of the contract including any extensions of the term.

5. City's Right to Review Coverage. The City shall have the right to inspect and approve Contractor's insurance coverage herein required. Should the City deem it advisable to modify the coverage in any way, it shall so request of the Contractor in writing and should the Contractor fail to modify the coverage, then the City may pay the cost of any increased coverage or take credit for any decreases as may be appropriate. Review or acceptance of insurance by the City or representatives of the City shall not relieve or decrease the responsibility of the Contractor hereunder.

6. Waiver of Subrogation. To the extent that the Contractor is required to maintain insurance coverage for loss or damage to property or bodily injury, including Builders Risk All Risk insurance, the insurance must waive and the Contractor hereby waives subrogation of claims against the City, its officers, agents and employees.

7. City as Additional Insured. The City shall be named as additional insured, for ongoing and completed operations for up to two (2) years, on the Contractor's and any subcontractor's policies for any claims arising out of work performed under this Contract. The Contractor shall provide the City with a Certificate of Insurance naming the City as an additional insured using ISO for CG 2010 1185 (or a substitute form providing equivalent coverage) or on the combination of ISO forms CG 20 10 07 04 or CG 20 33 07 04 and CG 20 37 07 04 (or a substitute or ISO form providing equivalent coverage) naming the City as an additional insured, giving all parties a 30 day notice of cancellation or intent not to renew the insurance, a waiver of subrogation and list any and all exclusions. The coverage available to the City as an additional insured shall not be less than \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate (subject to a per project general aggregate applicable to the project,), \$2,000,000 Products/completed Operations Aggregate, and \$1,000,000 Personal and Advertising injury limits. Additional insured coverage shall apply as primary, non-contributory, insurance with any other insurance afforded to the City and the Contractor.

8. Elevators, Hoist and Cranes. If the Contractor or a subcontractor will utilize in connection with the performance of the work pursuant to this contract an elevator, material hoist, crane or other equipment, or conveyor, then the Contractor shall take out and maintain or require the subcontractor to take out and maintain insurance that shall protect the Contractor and the City against claims for injuries to members of the public (including City employees) or damages to property of others (including City property) arising out of any act of the Contractor or any of its agents, employees or subcontractors resulting from the operation of such elevator, material hoist, crane or other equipment, or conveyor.

**B. Insurance:**

1. Workmen's Compensation Insurance: The Contractor shall take out and maintain during the term or any extensions of this contract Workmen's Compensation Insurance as required by Alabama law for all of its employees employed at the site of the Project or off-sites related to the Project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor.

In case any class of employees engaged in any work under this contract at the site of the Project is not protected under the Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate accident insurance for the protection of its employees not otherwise protected.

Water or Navigational Exposure; Where work under this contract may trigger the requirement for Federal Longshoreman's and Harbor worker's Act and Federal Jones Act or insurance required by other applicable law or regulations, the Contractor shall obtain the same if required.

2. Comprehensive Automobile and Vehicle Liability Insurance: The Contractor shall maintain during the term or any extensions of this contract, comprehensive automobile and vehicle liability insurance. The limits of liability shall not be less than \$1,000,000 combined single limit or equivalent.

3. Commercial General Liability Insurance: The Contractor shall maintain during the term or any extensions of this contract, Commercial General Liability Insurance, including officers, agents and employees. The limits of liability shall not be less than \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate (subject to a per project general aggregate applicable to the project), \$2,000,000 Products/Completed Operations Aggregate, and \$1,000,000 Personal and Advertising Injury Limits Combined Single Limit or equivalent.

4. Owner's Protective Insurance: For projects with a contract amount of \$500,000.00 or greater, an Owner's Protective Policy is required in the minimum amount of \$1,000,000 each occurrence. Provided; however, the City may require such insurance on projects of lesser amount if an insurance limit amount is stated herein.

5. Umbrella Excess Liability Over Primary Insurance: The Contractor shall take out and maintain during the term of this contract, and any extensions thereof, Umbrella Excess Liability Insurance. The minimum limits of coverage shall be as follows:

|                 |                        |
|-----------------|------------------------|
| Each Occurrence | \$ <u>5,000,000.00</u> |
| Aggregate       | \$ <u>5,000,000.00</u> |

The coverage shall be over the required general liability insurance and automobile liability insurance as a minimum. There shall be no gaps or sublimit deductibles, etc.

6. Miscellaneous Insurance: The Contractor shall provide whatever insurance may be required of the City or the Contractor by permits or agreements, etc., with the railroad, highways, or other utilities. The Contractor shall familiarize himself with all insurance requirements contained in easements, permits, and agreements associated with this Project. The Contractor shall provide any Railroad Protective Liability and other General Liability Insurance in the amounts contained in the agreements, permits or easements or in greater amounts if higher limits are appropriate or required elsewhere. The Contractor shall bear the cost of all required insurance and shall include in his bid a sufficient amount to cover the cost of all required insurance. To the extent the City obtains permits or licenses for railroad or highway bores, crossings or other work involved in the Project, the Contractor shall obtain adequate insurance to protect itself and the City.

7. **Proof of Carriage of Insurance:** The Contractor shall furnish the City with satisfactory proof of carriage of the insurance required herein, in the form of an insurance certificate or if the City elects in the form of a policy. Insurance shall be in a form satisfactory to the City.

- (A) The Contractor's and any subcontractor's general liability and automobile liability insurance shall endorse the Owner (City of Tuscaloosa), its officers, agents and employees, as additional insured's for any claims arising out of work performed under this contract.
- (B) The Contractor's insurance endorsing the Owner and others as additional insured's shall be "primary" and non contributory as to such endorsed insured's.
- (C) Cancellation: The certificate and policy, as the case may be, shall state that the City shall be given thirty (30) days' written notice of cancellation or any change in the insurance coverage.
- (D) There shall be a statement that the Contractor and any subcontractors waive subrogation as to the City, its officers, agents, employees and Program Coordinator.
- (E) There shall be a statement that full aggregate limits apply per job or contract.
- (F) Agents verification of Contractor's insurance on form provided by the City or equivalent.
- (G) Insurance shall contain no exclusions for x, c or u.
- (H) Full aggregate limits must apply per job or contract.

C. **No Personal Liability of Public Officials:** In carrying out any of the provisions hereof in exercising any authority granted by the Contract, there will be no personal liability upon any public official.

D. **Indemnity:** To the maximum extent permitted by law, the Contractor shall save harmless, indemnify and defend the City, its officers, agents and employees from and against any and all claims and losses, cost, expense or liability including attorney's fees and litigation costs caused by, arising out of, resulting from, or occurring in connection with the performance of the work by the Contractor or any subcontractor, regardless of the fault, breach of contract, or negligence of the City, its officers, agents or employees excepting only such claims or losses that have been adjudicated to have been caused solely by the negligence of the City and regardless of whether or not the Contractor is or can be named a party in a litigation.

Contractor agrees to indemnify and/or reimburse the City for any fines, violations, charges, suits, or sums of money imposed by the Alabama Department of Environmental Management (ADEM), Environmental Protection Agency (EPA), or any administrative agency on the City of Tuscaloosa for any sewage or contaminate discharged or Wetlands regulations violation as a result of or arising out of the work by the Contractor pursuant to this agreement.

E. **Errors and Omissions.** The Contractor does agree to release and hold harmless the City of Tuscaloosa or any of its officers, agents and employees and its Program Coordinator from any damages claimed by the Contractor or subcontractors resulting from or attributable in whole or in part to, errors in or omissions of the plans and specifications, including final drawings of the Engineer/Architect or other design professionals. As to plans, specifications or designs prepared by independent design professionals, the parties agree that any City review or approval thereof was only for overall suitability, maintenance and usability and there are no express or implied warranties by the City as to the adequacy, accuracy, correctness, or code compliance thereof.

F. **Exclusion of Contractor Claims:** In performing its obligations, the Engineer/Architect and its consultants may cause expense for the Contractor or its subcontractors and equipment or material suppliers. However, those parties and their sureties shall maintain no direct action against the City or its officers, employees, agents and program coordinator for any claim arising out of, in connection with, or resulting from the Engineering services performed or required to be performed where such services are performed in good faith to protect the City or the Public.

G. **Inadequate Surety/Insurance.** It is further mutually agreed between the parties hereto that if, at any time after the execution of this agreement, any of the surety bonds of the Contractor or subcontractors relating to the Project for its faithful performance shall be deemed by the City to be unsatisfactory, or if for any reason such bond(s) ceases to be adequate to cover the performance of the work or the surety ceases to do business by agent in Tuscaloosa County, Alabama, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City so to do, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the City. In such event, no further payment to the Contractor shall be deemed to be due under this agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City.

H. **Changes.** When changes in the scope of work by written order or change orders aggregate in amount equal to 10 percent of the total contract, including the change order or change orders, the insurance coverage included under this heading shall be increased accordingly by the Contractor. Proof of coverage shall be established by endorsement to the original policy or by re-issue of the original policy to include the added coverage, or in accordance with any other acceptable policy with the insuring company for increasing the coverage.

### ARTICLE VIII. WARRANTY AND GUARANTEES

A. **Warranty and Guarantee:**

1. **Warranty:** The Contractor warrants to the City that all materials and equipment furnished under this Contract will be new unless otherwise specified and that all work, materials and equipment will be of good quality, free from fault and defects and in conformance with the contract documents. The work must be safe, substantial and durable construction in all respects. All work, materials and equipment not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Warranties shall commence to run from the date of substantial completion.

The work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Contractor hereby guarantees the Project and the work on the Project against defective materials or faulty workmanship for a minimum of one (1) year after final payment by the City and shall replace or repair any defective materials or equipment or faulty workmanship during the period of guarantee at no cost to the City.

2. **Guarantee:** If, within the designated warranty period or if not designated, within one (1) year from the date of substantial completion, any of the work, materials or equipment is found to be defective or not in accordance with the contract documents, the Contractor shall correct it promptly after receipt of written notice from the City to do so, unless the City has previously specifically given the Contractor a written acceptance of such specific condition. This obligation shall survive termination of the Contract. The City shall give such notice promptly after discovery of the condition.

B. **Correction of Defective Work During Warranty/Guarantee Period:** The Contractor hereby agrees to make, at his own expense and no cost to the City, all repairs or replacements necessitated by defects in materials or workmanship, provided under the terms of this Contract, and pay for any damage to other works resulting from such defects, which become evident within 1 year after the date of substantial completion unless substantial completion is established by the Engineer/Architect only for specified items of equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents unless the City has previously given the Contractor a written acceptance of such defects. The Contractor shall promptly correct such defects upon receipt of a written notice from the City to do so. This obligation shall survive the termination of the Contract.

Unremedied defects identified for correction during the warranty period described herein before, but remaining after its expiration, shall be considered as part of the obligations of the warranty. Defects in material, workmanship, or equipment which are remedied as a result of obligations of the warranty shall subject the remedied portion of the Project to an extended warranty period of 1 year after the defect has been remedied.

The Contractor further assumes responsibility for a similar guarantee for all work and materials provided by subcontractors or manufacturers of packaged equipment components.

The City's rights under this Article shall be in addition to, and not a limitation of, any other rights and remedies available by law.

#### ARTICLE IX. LAWS, PERMITS, ETC.

**A. Laws and Regulations/Royalties, Patents, Copyrights and Permits and Rights-of-Way:** The Contractor shall comply with and keep itself fully informed of all laws, ordinances and regulations of federal, state, City and county in any manner effecting those engaged or employed in the Project, or the materials used in the Project, or in any way affecting the conduct of the Project, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. The Contractor shall possess all permits and licenses required by applicable law, rule or regulation for the performance of the Project. If any discrepancy or inconsistency should be discovered in this contract, or in the drawings or specifications herein referred to, in relation to any law, ordinance, regulation, order or decree, it shall forthwith report the same in writing to the Engineer/Architect. It shall at all times, itself, observe and comply with all such existing and future laws, ordinances and regulations.

The Contractor shall protect and indemnify the City, Engineer/Architect, and their respective employees, officers, subconsultants, and agents against any claim or liability arising from or based on the violation of any such laws, ordinances, or regulations. All permits, licenses, and inspection fees necessary for prosecution and completion of the Project shall be secured and paid for by the Contractor, unless otherwise specified.

The Contractor shall obtain and pay for all licenses and permits and shall pay all fees and charges for connection to outside service and the use of property required for the execution and completion of the Project.

The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and code requirements applicable in or bearing on the conduct of the Project unless in conflict with contract requirements. If the Contractor ascertains at any time that any requirements of the Contract is at variance with applicable laws, ordinances, regulations, or building code requirements, it shall promptly notify the Engineer/Architect and any necessary adjustment of the Contract will be made as herein specified under change in orders.

The Contractor shall pay all applicable federal, state and local taxes and assessments on the Project. Wherever the law of the place of building requires a special tax, consumer, use, occupation, or other tax, the Contractor shall pay such tax.

The Contractor shall pay all royalties and license fees. The Contractor shall hold and save the City and its agents and employees harmless from liability of any nature or kind, including costs and expenses, for or on account of any patented or unpatented invention, process, article or appliance manufactured or used in the performance of the contract, including its use by the City.

If the Contractor has information that any process, article or item specified or delineated by the Engineer/Architect is an infringement of a patent or a copyright, it shall promptly give such information to the Engineer/Architect.

**ARTICLE X. MISCELLANEOUS CLAUSES**

**A. Notice and Service Thereof:**

1. All notices, demands, requests, change orders, instructions, approvals and claims shall be in writing. Unless expressly otherwise provided elsewhere in this agreement, any election, notice or other communication required or permitted to be given under this agreement shall be in writing and deemed to have been duly given if provided in accordance with the provisions hereof.
2. Any notice to or demand upon the Contractor shall be in writing and shall be sufficiently given if addressed to the Contractor at the address stated herein and deposited in the United States mail in a sealed envelope with sufficient postage prepaid or delivered with charges prepaid to any telegraph company for transmission to the Contractor at such address. It shall also be sufficient if such notice or demand be served upon the Contractor personally or its local representative in charge of the Project or delivered at his local office. The Contractor shall, from time to time, designate to the City in writing any change of address to which such notice or demand shall be sent.
3. Any notice to or demand upon the City shall be in writing and shall be sufficiently given if delivered to the office of the City's representative or if addressed to the City representative and deposited in the United States mail in a sealed envelope with sufficient postage prepaid or delivered with charges prepaid to any telegraph company for transmission to such representative of the City.

**B. City Representative:** The City's representative on this Project is hereby designated as Stacy Vaughn and whose address is 3440 Kauloosa Venue, Tuscaloosa, Alabama 35401

. All references to Engineer or Architect shall be to the City representative if no Engineer or Architect is involved in the Project.

With a copy to: Glenda Webb, Esquire, City Attorney, Office of the City Attorney  
City of Tuscaloosa, Post Office Box 2089, Tuscaloosa, Alabama 35403-2089  
Telephone: (205) 248-5140, Facsimile: (205) 349-0328

**C. Contractor Representative:** The Contractor's representative on this Project is hereby designated as \_\_\_\_\_ and whose address is \_\_\_\_\_.

**D. Capacity:** Each party to this agreement represents and warrants to the other as follows:

1. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.
2. That each has full power and capacity to enter into this agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.
3. That to the extent required, each party has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the party.
4. That each party has duly authorized and empowered a representative to execute this agreement on their respective behalf and the execution of this agreement by such representative fully and completely binds the party to the terms and conditions hereof.
5. That absent fraud, the execution of this agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other party shall be entitled to rely upon the same. To the extent a party is a partnership, limited

liability company or joint venture, the execution of this agreement by any member thereof shall bind the party and to the extent that the execution of agreement is limited to a manager, managing partner or specific member then the person so executing this agreement is duly authorized to act in such capacity for the party.

6. That each party represents and warrants to the other that there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this agreement.
7. That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this agreement.
8. Under the provisions of the Constitution and laws of the State of Alabama, each party has the power to consummate the transactions contemplated by this agreement;
9. Each party represents and warrants that the execution and delivery of this agreement and the consummation of the transactions contemplated herein will not conflict with, be in violation of, or constitute (upon notice or lapse of time, or both) a default under the laws of the State of Alabama, any resolution, agreement, or other contract agreement, or instrument to which a party is subject, or any resolution, order, rule, regulation, writ, injunction, decree or judgment of any governmental authority or court having jurisdiction over the party.
10. This agreement constitutes the legal, valid and binding obligation of each party and is enforceable against each party in accordance with its terms, except in so far as the enforceability thereof may be limited by:
  - (a) Bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights
  - (b) General principles of equity, regardless of whether such enforceability is considered as a proceeding at equity or at law.
11. Neither party will enter into any agreement to do anything prohibited in this agreement or enter into any agreement or take any action which would in any way impair the ability of the other party to faithfully and fully perform its obligations hereunder.
12. Under the provisions of the Constitution and laws of the State of Alabama, each party has the power to consummate the transactions contemplated by this agreement.

**E. Ownership of Contract Documents:** The Contract Documents, and copies of parts thereof, are furnished and owned either by the City or the Engineer/Architect. All portions of the Contract Documents, and copies of parts thereof, are the instruments of service for this Project. They are not to be used on other work and are to be returned to the City on request at the completion of the Project. Any reuse of these materials without specific written verification or adaptation by the City will be at the risk of the user and without liability or legal expense to the City or Engineer/Architect. Such user shall hold the City, its officers, agents and employees harmless from any and all damages, including reasonable attorneys' fees, from any and all claims arising from any such reuse. Any such verification and adoption shall entitle the City to further compensation at rates to be agreed upon by the user and the City.

**F. No Waiver of Rights:** Neither the inspection by the City or the Engineer/Architect or any of their officers, employees, agents, or subconsultants, nor any order by the City for payment of money, nor any payment for, or acceptance of, the whole or any part of the Project by the City or Engineer/Architect, nor any extension of time or change order, nor any possession taken by the City or its employees, or non enforcement of any provision of this agreement by either party shall operate as a waiver of any provision of this agreement, or any power herein reserved to the City, or any right to damages, nor shall any waiver of any breach in this agreement be held to be a waiver of any other or subsequent breach. Acceptance or final payment shall not be final and conclusive with regards to latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the City's rights under any warranty.

**G. Subletting or Assigning of Contract:**

1. **Limitations:** The Contractor shall not sublet, assign, transfer, convey, sell or otherwise dispose of any portion of the agreement, his obligations, right, or interest therein, or its power to execute such agreement, 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 duty or responsibility for the fulfillment of the agreement. A sale, conveyance or transfer of 50% or more of the stock or ownership of the Contractor shall be considered an assignment. Provided; however, in no event shall any portion of this agreement be assigned to an unsuccessful bidder whose bid was rejected because he or she was not a responsible or responsive bidder. Use of subcontracts up to a combined (total) value of 50 percent of the value of all work will not be construed as an assignment. Unless otherwise stipulated in the proposal or general conditions, the Contractor shall perform, with its own organization, work with the value not less than fifty (50) percent of the value of all work embraced in the contract.
2. **Subcontractor's Status:** A subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

**H. Third Party Beneficiaries:** It is the intent of the parties hereto that there shall be no third party beneficiaries to this agreement.

**I. Final Integration:** This Agreement constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

**J. Force Majeure:** Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

**K. Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

**L. Binding Effect:** This agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns.

**M. Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.

**N. Construction:** This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

**O. Mandatory and Permissive:** "Shall", "will", and "agrees" are mandatory; "may" is permissive.

**P. Governing Laws:** The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.

**Q. Liability of the City or City Officials.** Notwithstanding any provision hereof to the contrary, the parties agree and acknowledge that the liability and obligations of the City, City officials or City employees as set forth herein

are subject to the limitations imposed on municipalities by the Constitution and laws of the State of Alabama. No present or future official, officer or employee of the City shall ever be personally liable for the performance of any obligations hereunder.

**R. Non Discrimination:** The Contractor agrees that in performing the work and services as required herein under this agreement, not to discriminate against any person on the basis of race color, religion, sex, age or disability. (The Contractor shall fully comply with the Americans with Disabilities Act), the Fair Labor Standards Act and all other applicable laws and regulations).

**S. Fines and Penalties:** The Contractor shall be solely liable for any and all fines or penalties which may be levied by any governmental authority against the Owner and/or Contractor which are related to the Contractor's operations. The Owner shall deduct the amount of the levied fine or penalty from the Contract amount.

**T. Agreement Date/Counterparts:** The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

**U. Use of Words and Phrases.** The following words and phrases, where used in this document, shall be given the following and respective interpretations: "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this document as an entirety and not solely to the particular portion hereof in which any such word is used.

The definitions set forth in any portion of this Agreement unless the text or context indicates differently shall be deemed applicable whether the words defined are herein used in the singular or the plural. Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

**V. Severability.** Each provision of this agreement shall be considered to be severable and, if for any reason, any such provision or any part thereof, is determined to be invalid and contrary to any existing or future applicable law, such invalidity shall not impair the operation of or affect those portions of this agreement that are valid, but this agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part thereof had been omitted.

**IN TESTIMONY WHEREOF**, said Contractor has hereto affixed its signature and said City of Tuscaloosa has caused these presents to be executed by Walter Maddox, Mayor of the City of Tuscaloosa, and attested by the City Clerk, on the day and year first above written, in four counterparts, each of which shall, without proof or accounting for the other, be accepted as an original.

## **ARTICLE XI. FEDERALLY FUNDED CONTRACTS/ FEMA COMPLIANCE REQUIRED**

### **A. DEFINITIONS**

**"Contractor"** means an entity that has entered into an agreement with the local government for the performance of specific work on a project or activity, the provision of professional services, or for the supply of equipment and/or materials.

**"FEMA"** means Federal Emergency Management Agency (Federal Agency).

**"DHS"** means Department of Homeland Security. (Federal Agency)

"Local Government" means the City of Tuscaloosa.

"Program" means the \_\_\_\_\_  
(Federal Program) operated under the provisions of \_\_\_\_\_

"Projects/Activities" means those undertakings which are included in the Program and are funded wholly or in part by \_\_\_\_\_ Coronavirus Aid Relief Economic Security (CARES) Act or other subsequently passed federal funding.

"Project Area" means the corporate limits of the City of Tuscaloosa.

"Subcontractor" means a person, firm or corporation supplying services or labor and materials or only labor or only materials for services or work at the site of the project, for and under contract or agreement with the Contractor.

## **B. CONFLICT OF INTEREST**

1.. Interest of Members of the Local Government. No officer, employee or agent of the local government who exercises any function or responsibilities in connection with the planning and carrying out of the program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in this contract, and the Contractor shall take appropriate steps to assure compliance.

2.. The Contractor agrees that it will incorporate into every subcontract required in writing the following provision: Interest of Contractor and Employees. The Contractor agrees that no person who presently exercises any functions or responsibilities in connection with the program, has any personal financial interest, direct or indirect, in this contract. The Contractor further covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder.

The Contractor further covenants that in the performance of this contract no person having any conflicting interest shall be employed. Any interest on the part of the Contractor or his employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by low income residents of the area.

3.. Provisions of the Hatch Act. Neither the funds provided by this agreement nor the personnel employed in the administration of the agreed upon work shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, U. S. Code.

**C. EQUAL OPPORTUNITY REQUIREMENTS:** During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection of training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, or disability.

3. The Contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish to the local government all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the local government, HUD, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules regulations, and orders.

6. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations, or orders, this agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further local government contracts in accordance with procedures authorized in Executive Order 11246 of September 24 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the City, Secretary of Labor, or as otherwise provided by law.

7. The Contractor will include the provisions of paragraph 1 through 6 above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the local government or the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed as a means of enforcing such provisions, including sanctions for noncompliance: Provided however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the local government to enter into such litigation to protect the interests of the local government.

8. The Contractor agrees that it will assist and cooperate actively with the local government and the Secretary of Labor in obtaining the compliance of subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the local government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the local government in the discharge of its primary responsibility for securing compliance.

9. The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order. In addition, the agency agrees that if it fails or refuses to comply with these undertakings, the local government may take any or all of the following actions: terminate or suspend in whole or in part this contract; refrain from extending any further assistance to the Contractor under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contractor.

10. Non-segregated Facilities. The Contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Contractor covenants that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. As used in this paragraph, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise.

12. No person in the United States shall, on the ground of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this contract. The agency and each employer will comply with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964.

13. The Contractor shall maintain data which records its affirmation action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training.

**D. ENVIRONMENTAL PROTECTION REQUIREMENTS**

1. The Contractor hereby agrees that any facility to be utilized in the performance of any nonexempt contract or subcontract shall not be a facility included on the list of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

2. The Contractor also agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

3. As a condition of the award of the contract, the Contractor agrees to give prompt notice to the City of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. The Contractor agrees that it will include or cause to be included the criteria and requirements in subparagraph A through D of this section in every nonexempt subcontract and that it will take such action as the City or the EPS may direct as a means of enforcing such provisions.

**Clean Air Act**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

2. The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**Federal Water Pollution Control Act**

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

2. The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**E. FINANCIAL MANAGEMENT:** The Contractor shall maintain effective control over and accountability for all funds, property, and other assets that are provided for by this agreement. The Contractor shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

1. Ineligible Costs. In addition to any costs that are ineligible under other criteria included herein the following costs are specifically ineligible:

- a. Bad Debts. Any losses arising from uncollected accounts and other claims, and related costs.
- b. Contingencies. Contributions to a contingency reserve or any similar provisions for unforeseen events.
- c. Contributions and Donations.

- d. Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.
- e. Fines and Penalties. Costs resulting from violations of or failure to comply with Federal, State, and local laws and regulations.
- f. Interest and Other Financial Costs. Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection herewith.
- g. Legislative Expenses. Salaries and other expenses of local government bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction.
- h. Membership Expenses. Cost of membership in an organization which devotes a substantial part of its activities to influencing legislation.
- i. Travel. Costs in excess of those allowed by the Contractor for its equivalent employees. In any case, the difference in cost between first-class air accommodations and less-than-first-class air accommodations are not available and is so documented.
- j. Meeting Attendance. Costs of attending meetings which are not open for attendance on a non-segregated basis.

2. Property Management Standards. The Contractor's property management standards for non-expendable personal property acquired under this contract shall include the following procedural requirements:

- a. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition data, cost, and source of property; percentage of Federal funds used in the purchase of property; location, use and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value.
- b. A physical inventory of property shall be taken and the results reconciled with the property records at least once each year to verify the existence, current utilization, and continued need for the property.
- c. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of non-expendable property shall be investigated and fully documented.
- d. Adequate maintenance procedures shall be implemented to keep the property in good Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

3. Procurement Standards

- a. The Contractor shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending grant funds. Local government officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors or potential Contractors.
- b. All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition.

**F. SUSPENSION AND DEBARMENT**

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient/applicant). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **G. GENERAL REQUIREMENTS**

### **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

## **ACCESS TO RECORDS**

(1) The Contractor agrees to provide the CITY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

## **USE OF DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

## **COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directive.

## NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

## PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

## OTHER GENERAL REQUIREMENTS (MAY BE REQUIRED AS APPLICABLE)

A. Retention of Records. All records maintained by the Contractor that pertain to this agreement shall be retained by the Contractor for a period of three years or such longer period as the local government or HUD may require in specific cases.

B. Reports and Information. The Contractor, at such times as the local government may require, shall furnish such statements, reports, records, data and information, as may be requested pertaining to matters covered by this agreement.

C. Audit Requirements. The local government, the Comptroller General of the United States, and/or \_\_\_\_\_ (Federal Agency), or any of the duly authorized representatives shall have access to all tasks, accounts, records, reports, files and other papers or property of the Contractor pertaining to funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts. The Contractor's financial management system shall be audited at least once a year. Audits may be made at less frequency considering the nature, size and complexity of the activity. The Contractor shall implement a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

D. Breach of Contract Terms and Conditions. In the event of the Contractor's noncompliance with the terms and conditions of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part. Provided, that the right of the Contractor to proceed with this contract shall not be terminated or the Contractor charged with liquidated damages because of delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted, to acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes, if the Contractor shall within ten days from the beginning of any such delay notify the City in writing of the cause of the delay. The City shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the City's judgment, the findings of fact justify such an extension, and the City's findings of fact thereon shall be final and conclusive on the parties hereto, subject only to appeal, within thirty days, by the Contractor to the City whose decision on such appeal as to the facts of delay and the extension of time for completing the work shall be final and conclusive on the parties hereto.

E. Lead-based Paint Regulations. The construction or rehabilitation of residential structures with assistance provided under this contract is subject to the HUD Lead-based Paint regulations, 24 CFR part 35. Should this contract include activities involving the construction or rehabilitation of residential structures, the Contractor hereby agrees to comply with the regulations of 24 CFR part 35.

F. Subcontracts. The Contractor shall insert in any subcontracts all of the terms and conditions set forth in this contract and also a clause requiring the subcontractors to include these terms and conditions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

G. Davis-Bacon. As applicable, Contractors shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5), the provisions of which are incorporated by reference into this contract as if contained herein.

H. Debarment of contactors/subcontractors / City's right to monitor. All contracting and subcontracting agencies shall be actively registered in the sam.gov system and have a non-debarred status to perform work. The

City of Tuscaloosa shall have all rights to any and all documentation related to the project. Periodic monitoring visits will be performed by City of Tuscaloosa staff to ensure all federal and contract requirements are followed.

I. Green Building Standard for Replacement and New Construction of Residential Housing. Contractors must meet the Green Building Standard in this subparagraph for: (i) all new construction of residential buildings; and (ii) all replacement of substantially-damaged residential buildings. Replacement of residential buildings may include reconstruction (i.e., demolishing and re-building a housing unit on the same lot in substantially the same manner) and may include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls. For purposes of this Notice, the Green Building Standard means the contractor will require that all construction covered by subparagraph, above, meet an industry-recognized standard that has achieved certification under at least one of the following programs (i) ENERGY STAR (Certified Homes or Multifamily High Rise); (ii) Enterprise Green Communities; (iii) LEED (NC, Homes, Midrise, Existing Buildings O&M, or Neighborhood Development); (iv) ICC-700 National Green Building Standard; (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite); or (vi) any other equivalent comprehensive green building program, including regional programs. Standards for rehabilitation of non-substantially-damaged residential buildings: For rehabilitation other than that described in subparagraph, above, contractors must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist, available on the CPD Disaster Recovery Web site. Contractors must apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR- labeled, WaterSense labeled, or federal Energy Management Program (FEMP)- designated products and appliances. Implementation: For construction projects completed under construction, or under contract prior to the date that federal assistance was approved for the project the contractor is encouraged to apply the applicable standards to the extent feasible but the Green Building Standard is not required; (ii) for specific which an ENERGY STAR-or-WaterSense-labeled or FEMP-designated product does not exist, the requirement to use such products does not apply. The City encourages contractors to implement green infrastructure policies to the extent practicable.

H. **DISASTER RECOVERY FUNDED CONTRACT:** The Contractor shall include the following provisions in all Disaster Recover (DR) funded construction contracts. For all DR-funded construction contracts, in the event the provisions contained in this section conflict with provisions contained elsewhere in this document, the provisions contained in this section shall prevail.

1. The Contractor agrees to abide by all applicable Federal regulations in receiving, disbursing and accounting for Community Development Block Grant funds including, but not limited to all applicable sections of 24 CFR 570.

2. ADA Compliance. The Contractor hereby covenants and agrees that, in performing its responsibilities and obligations hereunder, the Contractor, its officers, agents or employees will not, on the grounds of race, color, sex, religion, national origin, disability or age, discriminate or permit discrimination against any person or groups of persons in any manner. The Contractor further agrees to comply with all applicable State and Federal ordinances and regulations, including but not limited to, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the Civil Rights Act of 1964 and any regulations promulgated there under.

3. Section 3 Compliance. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations. Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall

describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin. Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135. Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after Contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

4. Section 109 Compliance. No person in the United States will, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity administered or provided under this Agreement, pursuant to Section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309).

5. Section 402 Compliance. Contractors and subcontractors shall take affirmative action to employ and advance in employment qualified covered veterans. Disabled veterans, recently separated veterans (veterans within 3 years of their discharge or release from active duty), veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized (referred to as "other protected veterans"), and Armed Forces service medal veterans are covered veterans under VEVRAA, pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA).

6. Copeland Anti-Kickback Act Compliance. Pursuant to The Copeland "Anti-Kickback" Act, 40 USC §3145, as supplemented by the Department of Labor regulations 29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.": The contractor shall comply with the aforementioned statutes and regulations as may be applicable, which are incorporated by reference into this contract. No contractor or subcontractor operating under this agreement shall induce an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment. Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. Contractors and subcontractors shall submit a weekly statement of the wages paid to each employee performing on covered work during the preceding payroll period. Breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

7. Affirmative Action. During the performance of this contract, the contractors and subcontractors operating under this agreement shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Contractors and subcontractors operating under this agreement shall comply with Affirmative Action laws and regulations to ensure equal employment opportunities, including, but not limited to 41 CFR Part 60-1; 41 CFR Part 60-2; 41 CFR Part 60-250; 41 CFR Part 60-741; compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity."

8. Compliance with Goals for Minority and Female Participation. The City of Tuscaloosa has voluntarily adopted a Minority / Disadvantaged Business Enterprise ("MBE/DBE/WBE") Program designed to encourage the participation and development of minority and disadvantaged business enterprises and to promote equal business opportunities to the fullest extent allowed by state and federal law. It is the intent of the City to foster competition among contractors, suppliers, and vendors that will result in better quality and more economical services rendered to the City. Under this policy, the City of Tuscaloosa has established a goal of ten to twenty percent (10-

20%) inclusion of minority and disadvantaged business enterprises for all services required to deliver City projects. In no case shall the stated percentage be the determining factor in contract awards. Rather, contractors must demonstrate a good faith effort to attain the desired percentage goal. The Developer is encouraged to adopt corresponding goals to those of the City's Minority / Disadvantaged Business Enterprise ("MBE/DBE/WBE") Program.

9. Compliance with Environmental Laws; including The Clean Air Act and Clean Water Act. Contractors and subcontractors operating under this agreement shall be responsible for ensuring compliance with Federal, State, or local pollution control laws and related requirements, including but not limited to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). If a contracting officer becomes aware of noncompliance with clean air or water standards in facilities used in performing nonexempt contracts, that contracting officer shall notify the agency head, or a designee, who shall promptly notify the EPA Administrator or a designee in writing.

10. Byrd Anti-Lobbying Agreement. Contractors operating under this agreement shall file the required certification under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**PARTY OF THE FIRST PART**

\_\_\_\_\_  
 ATTEST

\_\_\_\_\_  
 Contractor

BY: \_\_\_\_\_  
 ITS: \_\_\_\_\_

ATTEST:

**CITY OF TUSCALOOSA, A MUNICIPAL CORPORATION/PARTY OF THE SECOND PART/CITY, OWNER**

\_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 Walter Maddox, Mayor

STATE OF ALABAMA            )  
 COUNTY OF TUSCALOOSA    )

I, \_\_\_\_\_, a Notary Public in and for said State at Large, hereby certify that \_\_\_\_\_, who is named as \_\_\_\_\_, is signed to the foregoing document, and,

- Who is known to me, or
- Whose identity I proved on the basis of \_\_\_\_\_, or
- Whose identity I proved on the oath/affirmation of \_\_\_\_\_, a creditable witness to the signer of the above document

and that being informed of the contents of the document, he/she, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public.

My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA            )  
COUNTY OF TUSCALOOSA    )

Before me, the undersigned, a Notary Public in and for the State of Alabama, appeared Walter Maddox, Mayor of the City of Tuscaloosa and acknowledged that his signature is affixed hereto in his capacity as Mayor of the City of Tuscaloosa.

Done this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Alabama at Large

My Commission Expires: \_\_\_\_\_

[END OF CONTRACT AGREEMENT OFFICE OF THE CITY ATTORNEY]

CITY OF TUSCALOOSA CONTRACT DOCUMENTS  
SECTION SIX  
PERFORMANCE BONDS  
(2020)

STATE OF ALABAMA            )  
TUSCALOOSA, COUNTY        )

**KNOWN ALL MEN BY THESE PRESENTS**, that we, \_\_\_\_\_  
as principal and \_\_\_\_\_ (hereinafter called the "Surety"), as  
surety, do hereby acknowledge ourselves indebted and firmly bound and held unto the City of Tuscaloosa, Alabama,  
(hereinafter called the "City") a municipal corporation existing under and by virtue of the laws of the State of  
Alabama, for the use and benefit of those entitled thereto, in the penal sum of \_\_\_\_\_  
for the payment of which well and truly be made in lawful money of the United States, we do hereby bind ourselves,  
our successors and assigns and personal representatives, jointly and severally, firmly by the presents.

**BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:**

**WHEREAS**, the City has entered into a certain written contract with said Contractor for the \_\_\_\_\_  
\_\_\_\_\_ in accordance with contract documents  
therefore on file in the Office of the \_\_\_\_\_ at the price of, to-wit: \_\_\_\_\_  
\_\_\_\_\_ (\$ \_\_\_\_\_) as more fully appears in  
said written contract bearing the date of \_\_\_\_\_, 20\_\_\_\_, which contract is  
hereby referred to and made a part hereof to the same extent as if set out herein in full.

**NOW, THEREFORE**, if the Contractor shall fully and faithfully perform all the undertakings and obligations  
under the said agreement or contract herein before referred to and shall fully indemnify and save harmless the said  
City from all costs and damages whatsoever which it may suffer by reason of any failure on the part of said  
Contractor so to do, and shall fully reimburse and repay the said City any and all outlay and expense which it may  
incur in making good any such default, and shall guarantee all workmanship against defects for a period of one year,  
this obligation or bond shall be null and void, otherwise it shall remain in full force and effect.

And, for value received it is hereby stipulated and agreed that no change, extension of time, alteration or  
addition to the terms of said agreement or contract or in the work to be performed thereunder or the specifications  
accompanying the same shall in any wise affect the obligations of the principal or of the surety under this bond, and  
notice is hereby waived of any such change, extension of time, alternative of or addition to the terms of the  
agreement or contract or to the work or to the specifications.

**IN WITNESS WHEREOF**, the said Contractor has hereunder affixed its signature and said Surety has  
hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal  
By \_\_\_\_\_  
Title

\_\_\_\_\_  
Surety  
By \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

\_\_\_\_\_  
Title

CITY OF TUSCALOOSA PUBLIC WORKS CONTRACT DOCUMENTS

SECTION SEVEN  
LABOR AND MATERIAL BOND  
(2020)

**KNOWN ALL MEN BY THESE PRESENTS**, that we, \_\_\_\_\_  
(hereinafter called the "Contractor") of \_\_\_\_\_  
as principal and \_\_\_\_\_ (hereinafter called the  
"Surety"), as surety, do hereby acknowledge ourselves indebted and firmly bound and held unto the City of  
Tuscaloosa, Alabama, (hereinafter called the "City"), a municipal corporation, existing under and by virtue of the  
Laws of the State of Alabama, for the use and benefit of those entitled thereto, in the penal sum of \_\_\_\_\_  
(\$ \_\_\_\_\_) for the payment of which well and truly to be made in lawful money of the  
United States, we do hereby bind ourselves, or successors, assigns and personal representatives, jointly and  
severally, firmly by these presents.

**BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:**

**WHEREAS:** the City has entered into a certain written contract with said Contractor for the  
\_\_\_\_\_, in accordance with contract documents therefore on  
file in the Office of the \_\_\_\_\_ at the price of, to-wit:  
\_\_\_\_\_ (\$ \_\_\_\_\_)  
as more fully appears in said written contract bearing date of \_\_\_\_\_, 20\_\_\_\_, which contract is  
hereby referred to and made a part hereof to the same extent as if set out herein in full.

**NOW, THEREFORE**, if said Principal and all subcontractors to whom any portion of the work provided for in  
said contract is sublet and all assignees of said Principal and of such subcontractors shall promptly make payment to  
all persons supplying him or them with labor, foodstuffs, or supplies for or in the prosecution of the work provided for  
in such contract, or in any amendment or extension of or addition to said contract, and for the payment of  
reasonable attorney's fees, incurred by the claimant or claimants in suits on said bond, then the above obligation  
shall be void; otherwise, it shall 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, foodstuffs, or supplies for or in the  
prosecution of the work provided for in said contract, payment for which has not been made, shall have a direct right  
of action in his or their name or names 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  
and 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 said Principal  
and Surety or either of them (but not later than one year after the final settlement of said Contract) in which action  
such claim or claims shall be adjudicated and judgment rendered thereon.

(b) In addition to any other legal mode of service, service of summons and other process in suits on  
this bond brought in Tuscaloosa County may be had on the Principal or the Surety in accordance with Title 27,  
Chapter 3, Section 24 of the Ala. Code (1975) by serving a copy of the summons and complaint or other pleading or  
process, with the Commissioner of Insurance of the State of Alabama or his/ her designee and the Principal and  
Surety agree to be bound by such mode of service above described and consents that such service shall be the  
same as personal service on the Principal or Surety.

(c) The Surety shall not be liable hereunder for any damages or compensation recoverable under any 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 Title 39, Chapter 1, Section 1 of the Ala. Code (1975), and all the provisions of law with reference to this character of bond as set forth in said section or as may hereinafter be enacted are hereby made a part hereof to the same extent as if set out herein in full.

**IN WITNESS WHEREOF**, the said Contractor has hereunder affixed its signature and said Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers on the day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal

By: \_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_  
Surety

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Title

PROJECT NAME \_\_\_\_\_

FILE NO. \_\_\_\_\_

ENGINEERING PROJECT NO. \_\_\_\_\_

CONTRACTOR/INSURED \_\_\_\_\_

STATE OF ALABAMA )  
TUSCALOOSA COUNTY )

**AGENT'S VERIFICATION OF CONTRACTOR'S INSURANCE**

This is to certify to the City of Tuscaloosa, Alabama, a Municipal Corporation, that the Contractor in the above referenced Project does possess a policy or policies of insurance reflected on the Certificate of Insurance issued for the Project by the undersigned agency of which I am an authorized representative. I have read the contract document as it relates to insurance requirements and said Contractor's insurance is effective as of the dates stated in the certificate and meets or exceeds all ratings, limits, and amounts as required by the same.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

AGENCY: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

STATE OF ALABAMA )  
TUSCALOOSA COUNTY )

NOTICE OF CONDITIONAL BID AWARD  
CITY OF TUSCALOOSA, ALABAMA

VIA FACSIMILE: \_\_\_\_\_  
TO: \_\_\_\_\_  
\_\_\_\_\_

Project Name: \_\_\_\_\_  
File Number: \_\_\_\_\_  
Engineering Project Number: \_\_\_\_\_  
Date: \_\_\_\_\_

You are here notified pursuant to Ala. Code §39-2-6 (1975), that the City of Tuscaloosa has made a conditional bid award to you in regard to the above-referenced Project based upon your proposal of \$ \_\_\_\_\_.

The above bid award  Does  Does Not include the following additive and/or deductive alternates as requested in the bid documents:

**Additive Alternates**

**Deductive Alternates**

- |                     |                     |
|---------------------|---------------------|
| 1. _____ (\$ _____) | 1. _____ (\$ _____) |
| 2. _____ (\$ _____) | 2. _____ (\$ _____) |
| 3. _____ (\$ _____) | 3. _____ (\$ _____) |

Pursuant to Ala. Code §39-2-8 (1975), you are required to enter into a written contract on the form included in the proposal, plans and specifications, furnish a performance bond and a payment bond executed by a surety company authorized and qualified to make such bonds in the State of Alabama, in the amount required in the bid documents, and present evidence of insurance also as required by the bid documents, within the period of time stated therein or, if no period of time is stated, within thirty (30) days after the prescribed forms have been presented to you for signature.

Pursuant to Ala. Code §39-2-11 (1975), if you fail to execute the contract and furnish acceptable contract securities and evidence of insurance as required by the bid documents within the period of time as set forth, the awarding authority may retain all or a part of the proposal guarantee and may award the contract to the second lowest responsible responsive bidder. Under such circumstances, the owner will be entitled to consider all rights arising out of its acceptance of your proposal as abandoned.

DONE this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF TUSCALOOSA, ALABAMA  
A MUNICIPAL CORPORATION

By: \_\_\_\_\_  
City's Representative

By: \_\_\_\_\_  
City's Engineer/Architect

**ACCEPTANCE OF NOTICE**

I, on behalf of the above named contractor, do hereby accept receipt of the above notice of conditional bid award and acknowledge the contents of the same on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CONTRACTOR:

By its: \_\_\_\_\_

**ACCEPTANCE OF NOTICE**

I, on behalf of the above named contractor, do hereby accept receipt of the above notice of conditional bid award and acknowledge the contents of the same on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

**CONTRACTOR:**

By its: \_\_\_\_\_

STATE OF ALABAMA )  
TUSCALOOSA COUNTY )  
CITY OF TUSCALOOSA )

NOTICE TO PROCEED WITH PROJECT  
CITY OF TUSCALOOSA, ALABAMA

Project Name: \_\_\_\_\_  
File No.: \_\_\_\_\_  
Engineering Project No.: \_\_\_\_\_  
Date: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Ala. Code §39-2-10 (1975), you are hereby notified to immediately commence work in full accordance with the terms and conditions of the Contract Documents in the above referenced Project, dated \_\_\_\_\_, 20\_\_\_\_\_, on or before \_\_\_\_\_, 20\_\_\_\_\_, and you are to complete the work within the time specified therein.

CITY OF TUSCALOOSA, ALABAMA  
A MUNICIPAL CORPORATION  
Post Office Box 2089  
Tuscaloosa, Alabama 35403-2089

By: \_\_\_\_\_  
City's Representative

By: \_\_\_\_\_  
City's Engineer/Architect

ACCEPTANCE OF NOTICE

I, on behalf of the above named contractor, do hereby accept receipt of the above notice of conditional bid award and acknowledge the contents of the same on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CONTRACTOR:

By its: \_\_\_\_\_

**ACCEPTANCE OF NOTICE**

I, on behalf of the above named contractor, do hereby accept receipt of the above notice to proceed with the referenced Project and acknowledge the contents of the same on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

**CONTRACTOR:**

\_\_\_\_\_

By Its: \_\_\_\_\_

CONTRACT CHANGE ORDER NO.

City of Tuscaloosa, Office of the City Attorney

DATE: \_\_\_\_\_ PROJECT: \_\_\_\_\_

FILE NO.: \_\_\_\_\_ ENGINEERING PROJECT NO.: \_\_\_\_\_

TO: \_\_\_\_\_  
(Contractor)

**TERMS:** You are hereby authorized, subject to the provisions of your Contract for this Project, to make the following changes thereto in accordance with the attached Change Order Request and supporting documents and to:

**FURNISH** the necessary labor, materials and equipment to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TOTAL ADDITION OR REDUCTION TO CONTRACT PRICE:**

(Note: Numbers in parentheses are deductions).

|  |    |       |
|--|----|-------|
| ORIGINAL CONTRACT PRICE  | \$ | _____ |
| LESS CONTINGENCY/ALLOWANCE   | \$ | _____ |
| NET ORIGINAL CONTRACT PRICE  | \$ | _____ |
| Net total of previous Change Orders  | \$ | _____ |
| Previous revised Contract Price  | \$ | _____ |
| This Change Order No. _____ <input type="checkbox"/> Add <input type="checkbox"/> Deduct | \$ | _____ |
| Revised Contract Price this date   | \$ | _____ |

Extension of time resulting from this Change Order \_\_\_\_\_ (Indicate number of calendar days).

The amount of this Change Order will be the responsibility of \_\_\_\_\_

This Contract Modification constitutes full and mutual accord and satisfaction for all time and all cost related to this change. By acceptance of this Contract Modification, the Contractor hereby agrees that the modification represents an equitable adjustment to the Contract, and further, agrees to waive all right to file any further claims or changes arising out of or as a result of this change, or the accumulation of executed Contract Modifications on this Contract.

The Contractor and Owner(s) hereby agree to the terms of this Change Order as contained herein.

**CONSENT OF SURETY**

**CONTRACTING PARTIES**

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Representative)

**RECOMMENDED**

**CITY OF TUSCALOOSA**

By: \_\_\_\_\_

By: \_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Design Engineer or Architect)

CITY OF TUSCALOOSA  
OFFICE OF THE CITY ATTORNEY

**CHANGE  
ORDER  
REQUEST**

OWNER: CITY OF TUSCALOOSA

ARCHITECT/ENGINEER: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

PROJECT: \_\_\_\_\_

FILE NO.: \_\_\_\_\_ ENGINEERING PROJECT NO.: \_\_\_\_\_

CHANGE ORDER REQUEST NO. \_\_\_\_\_ DATE: \_\_\_\_\_

**1. DESCRIPTION OF CHANGE:**

**2. CHANGE ORDER COSTS:** \_\_\_\_\_

Proposal Attached \_\_\_\_\_ Cost Estimated/Proposal Required

| <i>Item</i>   | <i>Quantity</i> | <i>Material<br/>Unit Price</i> | <i>Labor<br/>(Hours)</i> | <i>Labor<br/>Unit Price</i> | <i>Sub-Total<br/>Cost</i> |
|---------------|-----------------|--------------------------------|--------------------------|-----------------------------|---------------------------|
| a.            |                 |                                |                          |                             |                           |
| b.            |                 |                                |                          |                             |                           |
| c.            |                 |                                |                          |                             |                           |
| d.            |                 |                                |                          |                             |                           |
| e.            |                 |                                |                          |                             |                           |
| f.*           |                 |                                |                          |                             |                           |
| <b>TOTAL:</b> |                 |                                |                          |                             |                           |

\*If more than 6 items, provide attachments.

**3. INSTITUTED BY:**

**4. JUSTIFICATION OF NEED:**

**5. JUSTIFICATION OF CHANGE ORDER VERSUS COMPETITIVE BIDDING:**

---

**6. COSTS REVIEW:**

---

**7. THIS CHANGE ORDER IS SUBMITTED FOR REVIEW AND APPROVAL AND IS CLASSIFIED AS THE FOLLOWING TYPE:**

- Minor change of a total monetary value less than required for competitive bidding.
  - Changes for matters relatively minor and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of work.
  - Emergencies arising during the course of work.
  - Change or alternates provided for in the original bidding where there is no difference in price of the Change Order from the original best bid on the Alternate.
  - Change of relatively minor terms not contemplated when the plans and specifications were prepared and the Project was bid and which are in the public interest and do not exceed 10% of the Contract Price.
- 

**8. EXTENSION OF TIME REQUESTED: Calendar Days:**

---

**RECOMMENDED:**

BY: \_\_\_\_\_  
Tuscaloosa's Consulting Engineer/Architect

BY: \_\_\_\_\_  
City Representative

**APPROVED:**

BY: \_\_\_\_\_  
Contractor

BY: \_\_\_\_\_  
Owner's Legal Advisor

BY: \_\_\_\_\_  
Owner's Authorized Representative



CITY OF TUSCALOOSA  
SPECIAL CONDITIONS FOR  
FEDERALLY FUNDED CONTRACTS

I. DEFINITIONS

"Construction Contract" means a contract for construction, rehabilitation, alteration, and/or repair, including painting and decorating.

"Contractor" means an entity that has entered into an agreement with the local government for the performance of specific work on a project or activity, the provision of professional services, or for the supply of equipment and/or materials.

" \_\_\_\_\_ " means \_\_\_\_\_ (Federal Agency).

"Local Government" means the City of Tuscaloosa.

"Program" means the \_\_\_\_\_  
(Federal Program) operated under the provisions of \_\_\_\_\_

"Projects/Activities" means those undertakings which are included in the Program and are funded wholly or in part by \_\_\_\_\_

"Project Area" means the corporate limits of the City of Tuscaloosa.

"Subcontractor" means a person, firm or corporation supplying services or labor and materials or only labor or only materials for work at the site of the project, for and under contract or agreement with the Contractor.

II. CONFLICT OF INTEREST

A. Interest of Members of the Local Government. No officer, employee or agent of the local government who exercises any function or responsibilities in connection with the planning and carrying out of the program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in this contract, and the Contractor shall take appropriate steps to assure compliance.

B. The Contractor agrees that it will incorporate into every subcontract required in writing the following provision: Interest of Contractor and Employees. The Contractor agrees that no person who presently exercises any functions or responsibilities in connection with the program, has any personal financial interest, direct or indirect, in this contract. The Contractor further covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder.

The Contractor further covenants that in the performance of this contract no person having any conflicting interest shall be employed. Any interest on the part of the Contractor or his employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by low income residents of the area.

C. Provisions of the Hatch Act. Neither the funds provided by this agreement nor the personnel employed in the administration of the agreed upon work shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, U. S. Code.

III. **EQUAL OPPORTUNITY REQUIREMENTS:** During the performance of this contract, the Contractor agrees as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or disability. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection of training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, or disability.

C. The Contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The Contractor will furnish to the local government all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the local government, HUD, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules regulations, and orders.

F. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations, or orders, this agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further local government contracts in accordance with procedures authorized in Executive Order 11246 of September 24 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the City, Secretary of Labor, or as otherwise provided by law.

G. The Contractor will include the provisions of paragraph 1 through 6 above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the local government or the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed as a means of enforcing such provisions, including sanctions for noncompliance: Provided however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the local government to enter into such litigation to protect the interests of the local government.

H. The Contractor agrees that it will assist and cooperate actively with the local government and the Secretary of Labor in obtaining the compliance of subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the local government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the local government in the discharge of its primary responsibility for securing compliance.

I. The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has

not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order. In addition, the agency agrees that if it fails or refuses to comply with these undertakings, the local government may take any or all of the following actions: terminate or suspend in whole or in part this contract; refrain from extending any further assistance to the Contractor under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contractor.

J. Non-segregated Facilities. The Contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Contractor covenants that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. As used in this paragraph, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise.

K. No person in the United States shall, on the ground of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this contract. The agency and each employer will comply with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964.

L. The Contractor shall maintain data which records its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training.

#### **IV. LABOR STANDARDS PROVISIONS - CONSTRUCTION CONTRACTS ONLY**

##### **A. Contract Work Hours and Safety Standards Act**

1. Overtime Requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any work-week in which he is employed on such work to work in excess of forty hours in any work-week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of forty hours in any work-week.
2. Violations; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph 1, the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the City for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph 1 in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work-week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph 1.
3. Withholding for Unpaid Wages and Liquidated Damages. The local government may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages.

B. Employment of Certain Persons Prohibited. No person under the age of sixteen years and no person who at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this contract.

C. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the labor standards provisions of this contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceedings or has testified or is about to testify in any proceedings under or relating to the labor standards applicable under this contract.

D. Questions Concerning Certain Federal Statutes and Regulations. All questions arising under this contract which relate to the application or interpretation of the aforesaid Contract Work Hours and Safety Standards Act, the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Act, or the labor standards provisions of any other pertinent Federal statute, shall be referred, through the City of Tuscaloosa and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purpose of this contract.

## V. ENVIRONMENTAL PROTECTION REQUIREMENTS

A. The Contractor hereby agrees that any facility to be utilized in the performance of any nonexempt contract or subcontract shall not be a facility included on the list of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

B. The Contractor also agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

C. As a condition of the award of the contract, the Contractor agrees to give prompt notice to the City of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

D. The Contractor agrees that it will include or cause to be included the criteria and requirements in subparagraph A through D of this section in every nonexempt subcontract and that it will take such action as the City or the EPS may direct as a means of enforcing such provisions.

VI. FINANCIAL MANAGEMENT: The Contractor shall maintain effective control over and accountability for all funds, property, and other assets that are provided for by this agreement. The Contractor shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

A. Ineligible Costs. In addition to any costs that are ineligible under other criteria included herein the following costs are specifically ineligible:

1. Bad Debts. Any losses arising from uncollected accounts and other claims, and related costs.
2. Contingencies. Contributions to a contingency reserve or any similar provisions for unforeseen events.
3. Contributions and Donations.
4. Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.
5. Fines and Penalties. Costs resulting from violations of or failure to comply with Federal, State, and local laws and regulations.

6. Interest and Other Financial Costs. Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection herewith.
7. Legislative Expenses. Salaries and other expenses of local government bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction.
8. Membership Expenses. Cost of membership in an organization which devotes a substantial part of its activities to influencing legislation.
9. Travel. Costs in excess of those allowed by the Contractor for its equivalent employees. In any case, the difference in cost between first-class air accommodations and less-than-first-class air accommodations are not available and is so documented.
10. Meeting Attendance. Costs of attending meetings which are not open for attendance on a non-segregated basis.

B. Property Management Standards. The Contractor's property management standards for non-expendable personal property acquired under this contract shall include the following procedural requirements:

1. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition data, cost, and source of property; percentage of Federal funds used in the purchase of property; location, use and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value.
2. A physical inventory of property shall be taken and the results reconciled with the property records at least once each year to verify the existence, current utilization, and continued need for the property.
3. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of non-expendable property shall be investigated and fully documented.
4. Adequate maintenance procedures shall be implemented to keep the property in good condition.

C. Procurement Standards

1. The Contractor shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending grant funds. Local government officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors or potential Contractors.
2. All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition.

## VII. GENERAL REQUIREMENTS

A. Retention of Records. All records maintained by the Contractor that pertain to this agreement shall be retained by the Contractor for a period of three years or such longer period as the local government or HUD may require in specific cases.

B. Reports and Information. The Contractor, at such times as the local government may require, shall furnish such statements, reports, records, data and information, as may be requested pertaining to matters covered by this agreement.

C. Audit Requirements. The local government, the Comptroller General of the United States, and/or \_\_\_\_\_ (Federal Agency), or any of the duly authorized representatives shall have access to all tasks, accounts, records, reports, files and other papers or property of the Contractor pertaining to funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts. The Contractor's financial management system shall be audited at least once a year. Audits may be made at less frequency considering the nature, size and complexity of the activity. The Contractor shall implement a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

D. Breach of Contract Terms and Conditions. In the event of the Contractor's noncompliance with the terms and conditions of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part. Provided, that the right of the Contractor to proceed with this contract shall not be terminated or the Contractor charged with liquidated damages because of delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted, to acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes, if the Contractor shall within ten days from the beginning of any such delay notify the City in writing of the cause of the delay. The City shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the City's judgment, the findings of fact justify such an extension, and the City's findings of fact thereon shall be final and conclusive on the parties hereto, subject only to appeal, within thirty days, by the Contractor to the City whose decision on such appeal as to the facts of delay and the extension of time for completing the work shall be final and conclusive on the parties hereto.

E. Safety Standards. No Contractor or subcontractor contracting for any part of a construction contract shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by the Secretary of Labor.

F. Lead-based Paint Regulations. The construction or rehabilitation of residential structures with assistance provided under this contract is subject to the HUD Lead-based Paint regulations, 24 CFR part 35. Should this contract include activities involving the construction or rehabilitation of residential structures, the Contractor hereby agrees to comply with the regulations of 24 CFR part 35.

G. Subcontracts. The Contractor shall insert in any subcontracts all of the terms and conditions set forth in this contract and also a clause requiring the subcontractors to include these terms and conditions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

H. Davis-Bacon. As applicable, Contractors shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5), the provisions of which are incorporated by reference into this contract as if contained herein.

I. Debarment of contactors/subcontractors / City's right to monitor. All contracting and subcontracting agencies shall be actively registered in the sam.gov system and have a non-debarred status to perform work. The City of Tuscaloosa shall have all rights to any and all documentation related to the project. Periodic monitoring visits will be performed by City of Tuscaloosa staff to ensure all federal and contract requirements are followed.

J. Green Building Standard for Replacement and New Construction of Residential Housing. Contractors must meet the Green Building Standard in this subparagraph for: (i) all new construction of residential buildings; and (ii) all replacement of substantially-damaged residential buildings. Replacement of residential buildings may include reconstruction (i.e., demolishing and re-building a housing unit on the same lot in substantially the same manner) and may include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls. For purposes of this Notice, the Green Building Standard means the contractor will require that all construction covered by subparagraph, above, meet an industry-recognized standard that has achieved certification

under at least one of the following programs (i) ENERGY STAR (Certified Homes or Multifamily High Rise); (ii) Enterprise Green Communities; (iii) LEED (NC, Homes, Midrise, Existing Buildings O&M, or Neighborhood Development); (iv) ICC-700 National Green Building Standard; (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite); or (vi) any other equivalent comprehensive green building program, including regional programs. Standards for rehabilitation of non-substantially-damaged residential buildings: For rehabilitation other than that described in subparagraph, above, contractors must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist, available on the CPD Disaster Recovery Web site. Contractors must apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR- labeled, WaterSense labeled, or federal Energy Management Program (FEMP)- designated products and appliances. Implementation: For construction projects completed under construction, or under contract prior to the date that federal assistance was approved for the project the contractor is encouraged to apply the applicable standards to the extent feasible but the Green Building Standard is not required; (ii) for specific which an ENERGY STAR-or-WaterSense-labeled or FEMP-designated product does not exist, the requirement to use such products does not apply. The City encourages contractors to implement green infrastructure policies to the extent practicable.

**VIII. ADECA-FUNDED CONTRACTS:** The Contractor shall include the following provisions in all construction contracts funded by the Alabama Department of Economic and Community Affairs (ADECA). For all ADECA-funded construction contracts, in the event the provisions contained in this section conflict with provisions contained elsewhere in this document, the provisions contained in this section shall prevail.

A. Section 109 Clause, Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

B. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) (applicable to contract/subcontracts exceeding \$10,000). Contractor's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

|                |                |
|----------------|----------------|
| Goals for      | Goals for      |
| Minority       | Female         |
| Participation  | Participation  |
| (Insert Goals) | (Insert Goals) |

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer

of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the Contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

C. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities.

1. The work to be performed under this Contract is a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12, U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.
2. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of this commitment under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any Subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the Subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified in 24 CFR Part 135.

D. Section 402 Veterans of the Vietnam Era (if \$10,000 or over). Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.

1. The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat

qualified disabled veterans and veterans of the Vietnam era without discrimination based on their disability or veteran status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

2. The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this Contract and those which occur during the performance of this Contract, including those not generated by this Contract and including those occurring at an establishment of the Contractor other than the one wherein the Contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs 4 and 5.
3. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
4. The reports required by paragraph 2 of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C.1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this Contract identifying data for each hiring location copies of the reports submitted until the expiration of one year after final payment under the Contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.
5. Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by the contract clause.

6. This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
7. The provisions of paragraphs 2, 3, 4 and 5 of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
8. As used in this clause:
  - a. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.
  - b. "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico and the Virgin Islands.
  - c. "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposed to fill from regularly established "recall" lists.
  - d. "Openings which the Contractor proposes to fill pursuant to customary and traditional employer-union hiring arrangements" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of his employees.
9. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
10. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
11. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the Contractor's obligation under

the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

12. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.
13. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

E. Certification of Compliance with Air and Water Acts (applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000). Compliance with Air and Water Acts. During the performance of this Contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended. In addition to the foregoing requirements, all nonexempt Contractors and Subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or Subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, or EPA indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such actions as the Government may direct as a means of enforcing such provisions.

F. Compliance with Copeland Act Requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

G. Drug-Free Workplace Requirements. The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**IV. DISASTER RECOVERY FUNDED CONTRACTS:** \_\_\_ The Contractor shall include the following provisions in all Disaster Recover (DR) funded construction contracts. For all DR-funded construction contracts, in the event the provisions contained in this section conflict with provisions contained elsewhere in this document, the provisions contained in this section shall prevail.

A. The Contractor agrees to abide by all applicable Federal regulations in receiving, disbursing and accounting for Community Development Block Grant funds including, but not limited to all applicable sections of 24 CFR 570.

B. ADA Compliance. The Contractor hereby covenants and agrees that, in performing its responsibilities and obligations hereunder, the Contractor, its officers, agents or employees will not, on the grounds of race, color, sex, religion, national origin, disability or age, discriminate or permit discrimination against any person or groups of persons in any manner. The Contractor further agrees to comply with all applicable State and Federal ordinances and regulations, including but not limited to, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the Civil Rights Act of 1964 and any regulations promulgated there under.

C. Section 3 Compliance. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations. Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin. Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135. Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after Contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

D. Section 109 Compliance. No person in the United States will, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity administered or provided under this Agreement, pursuant to Section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309).

E. Section 402 Compliance. Contractors and subcontractors shall take affirmative action to employ and advance in employment qualified covered veterans. Disabled veterans, recently separated veterans (veterans within 3 years of their discharge or release from active duty), veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized (referred to as "other protected veterans"), and Armed Forces service medal veterans are covered veterans under VEVRAA, pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA).

F. Copeland Anti-Kickback Act Compliance. Pursuant to The Copeland "Anti-Kickback" Act, 40 USC §3145 and 18 USC §874, no contractor or subcontractor operating under this agreement shall induce an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment. Contractors and subcontractors shall submit a weekly statement of the wages paid to each employee performing on covered work during the preceding payroll period.

G. Affirmative Action. During the performance of this contract, the contractors and subcontractors operating under this agreement shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Contractors and subcontractors operating under this agreement shall comply with Affirmative Action laws and regulations to ensure equal employment opportunities, including, but not limited to 41 CFR Part 60-1; 41 CFR Part 60-2; 41 CFR Part 60-250; 41 CFR Part 60-741; compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity."

H. Compliance with Goals for Minority and Female Participation. The City of Tuscaloosa has voluntarily adopted a Minority / Disadvantaged Business Enterprise ("MBE/DBE/WBE") Program designed to encourage the participation and development of minority and disadvantaged business enterprises and to promote equal business opportunities to the fullest extent allowed by state and federal law. It is the intent of the City to foster competition among contractors, suppliers, and vendors that will result in better quality and more economical services rendered to the City. Under this policy, the City of Tuscaloosa has established a goal of ten to twenty percent (10-20%) inclusion of minority and disadvantaged business enterprises for all services required to deliver City projects. In no case shall the stated percentage be the determining factor in contract awards. Rather, contractors must demonstrate a good faith effort to attain the desired percentage goal. The Developer is encouraged to adopt corresponding goals to those of the City's Minority / Disadvantaged Business Enterprise ("MBE/DBE/WBE") Program.

I. Compliance with Environmental Laws; including The Clean Air Act and Clean Water Act. Contractors and subcontractors operating under this agreement shall be responsible for ensuring compliance with Federal, State, or local pollution control laws and related requirements, including but not limited to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). If a contracting officer becomes aware of noncompliance with clean air or water standards in facilities used in performing nonexempt contracts, that contracting officer shall notify the agency head, or a designee, who shall promptly notify the EPA Administrator or a designee in writing.

J. Byrd Anti-Lobbying Agreement. Contractors operating under this agreement shall file the required certification under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

K. HUD Form 4010 See next page.

## Federal Labor Standards Provisions

## U.S. Department of Housing and Urban Development Office of Labor Relations

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

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

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(II) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

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

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

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

Previous editions are obsolete

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

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

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

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

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

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

L. Davis Bacon-Wage Rates

(Insert applicable Davis-Bacon Wage Rates Here)



ALABAMA DEPARTMENT OF REVENUE  
 SALES AND USE TAX DIVISION  
 P.O. Box 327710 • Montgomery, AL 36132-7710

ST: EXC-01  
 8/14

Application For  
 Sales and Use Tax Certificate of Exemption

FOR GOVERNMENT ENTITY PROJECT

This Certificate of Exemption will be limited to purchases which qualify for an exemption of sales and use taxes pursuant to Rule No. 810-6-3-.77

PROJECT INFORMATION:

|  |      |                                      |        |
|--|------|--------------------------------------|--------|
| PROJECT NAME   |      | PROJECT OWNER'S FEIN (EXEMPT ENTITY) |        |
| STREET ADDRESS OF PROJECT (CITY AND COUNTY INCLUDED) | CITY | ZIP                                  | COUNTY |

APPLICANT'S INFORMATION:

|  |                           |  |
|--|---------------------------|--|
| RELATION: (CHOOSE ONE)<br><input type="checkbox"/> Exempt Entity <input type="checkbox"/> General Contractor <input type="checkbox"/> Sub-Contractor |                           | NAICS CODE                             |
| APPLICANT'S LEGAL NAME   |                           | FEIN                                   |
| DBA  |                           | CONSUMER'S USE TAX ACCOUNT NUMBER      |
| MAILING ADDRESS  |                           |  |
| CONTACT PERSON   |                           | BUSINESS TELEPHONE NUMBER<br>(    )    |
| ESTIMATED START DATE   | ESTIMATED COMPLETION DATE |  |
| REASON EXEMPTION IS CLAIMED  |                           |  |
| JOB DESCRIPTION  |                           |  |
| WILL ANY POLLUTION CONTROL EXEMPTION BE APPLICABLE?<br><input type="checkbox"/> Yes <input type="checkbox"/> No                                      |                           | ESTIMATED POLLUTION CONTROL COST<br>\$ |
| TOTAL BID AMOUNT<br>\$   | LABOR COST<br>\$          | MATERIAL COST<br>\$                    |

|              |                                      |
|--------------|--------------------------------------|
| PROJECT NAME | PROJECT OWNER'S FEIN (EXEMPT ENTITY) |
|--------------|--------------------------------------|

**FORM OF OWNERSHIP:**

Individual    
 Partnership    
 Corporation    
 Multi member LLC    
 Single member LLC

If applicant is a corporation, a copy of the certified certificate of incorporation, amended certificate of incorporation, certificate of authority, or articles of incorporation should be attached. If the applicant is a limited liability company or a limited liability partnership, a copy of the certified articles of organization should be attached.

**OWNERSHIP INFORMATION:**

Corporations – give name, title, home address, and Social Security Number of each officer.

Partnerships – give name, home address, Social Security Number or FEIN of each partner.

Sole Proprietorships – give name, home address, Social Security Number of owner.

LLC – give name, home address, and Social Security Number or FEIN of each member.

LLP – give name, home address, and Social Security Number or FEIN of each partner.

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NAME (PLEASE PRINT) \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

**REVENUE DEPARTMENT USE ONLY**

Examiner's Remarks \_\_\_\_\_

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Examiner \_\_\_\_\_ Date \_\_\_\_\_

Supervisor's Recommendation \_\_\_\_\_

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Supervisor \_\_\_\_\_ Date \_\_\_\_\_

**Instructions For Preparation of Form ST: EXC-01  
Sales and Use Tax Certificate of Exemption for Government Entity Project**

In order to expedite the processing of your application, please include the following documentation when submitting your application:

**Exempt Entity:**

1. Signed Application
2. Copy of Executed/Signed Contract and/or Letter of Intent

**General Contractor:**

1. Signed Application
2. Copy of Executed/Signed Contract and/or Letter of Intent
3. List of Sub-Contractors
4. Alabama Board of General Contractor's License
5. State/County Business License (usually obtained through county probate office)
6. Any other municipal business licenses associated with the project

**Sub-Contractor:**

1. Application
2. Alabama Board of General Contractor's License
3. State/County Business License (usually obtained through county probate office)
4. Any other municipal business licenses associated with the project
5. List of Sub-Contractors (if any)

**General contractors and sub-contractors:**

Any updates regarding the sub-contractors working on a project, additions and/or deletions, must be submitted to the Department within 30 days of occurrence.

If an extension is needed for a project, please contact the Department of Revenue at the address, numbers, or emails listed below.

**THERE IS A FILING REQUIREMENT IF YOUR APPLICATION IS APPROVED.** The return will be filed through the Consumer's Use Tax account. If you do not currently have a Consumer's Use Tax account, one will be opened for you. The return should be filed every filing period that the Contractor's Exemption Certificate is active/open and should include the Project No., Exemption No., and the total amount of purchases for the filing period. If there is no product purchased with the exemption certificate, then a zero return must be filed for the period. There is a requirement of one entry for each exemption certificate that is active for each filing period. The information associated with the Contractor's Exemption Certificates is input at the bottom of the return.

**The application and applicable documentation may be mailed, faxed, or emailed to the following:**

**Fax:** (334) 353-7867

**Emails:** [amber.hartley@revenue.alabama.gov](mailto:amber.hartley@revenue.alabama.gov)      [brenda.wallace@revenue.alabama.gov](mailto:brenda.wallace@revenue.alabama.gov)

**Mailing Address:** ATTN: Contractor's Exemption  
Alabama Dept. of Revenue  
Sales & Use Tax Division - Room 4303  
PO Box 327710  
Montgomery, AL 36132-7710

## Exhibit A

### THE CITY OF TUSCALOOSA MINORITY ENTERPRISE/DISADVANTAGED BUSINESS ENTERPRISE (MBE/DBE/WBE) POLICY FOR PROJECTS OVER \$50,000

#### General Mission Statement

THE CITY OF TUSCALOOSA (hereinafter, "City") has voluntarily adopted a Minority/Disadvantaged Business Enterprise (MBE/DBE/WBE) Program designed to encourage the participation and development of minority and disadvantaged business enterprises and to promote equal business opportunities in the City to the fullest extent allowed by state and federal law.

It is the intent of the City to foster competition among contractors, suppliers, and vendors that will result in better quality and more economical services rendered to the City. Under this policy, the City of Tuscaloosa has established a goal of ten to twenty percent (10-20%) inclusion of minority and disadvantaged business enterprise (hereinafter sometimes "MBE/DBE/WBE") for all services required to deliver City projects. In no case shall the stated percentage be the determining factor in contract awards. Rather, contractors must demonstrate a good faith effort to attain the desired percentage goal.

#### Program Goals

It is the goal of this program:

- To ensure non-discrimination in the award and administration of City contracts.
- To help to remove barriers to the participation of DBE/MBE/WBE's in competing for City contracts.
- To ensure a level playing field exists on which DBE/MBE/WBE's can compete fairly for City contracts.

#### Definition

1. "Minority Business Enterprise" ("MBE") means a business which is an independent and continuing enterprise for profit, performing a commercially useful function and is at least fifty-one percent (51%) owned and controlled by an African American, or Black American.

2. "Women-owned Business Enterprise" ("WBE") means a business which is an independent and continuing enterprise for profit, performing a commercially useful function and is at least fifty-one percent (51%) owned, operated and controlled on a daily basis by one or more female American citizens.

3. "Disadvantaged Business Enterprise" (DBE) means a business which is an independent and continuing enterprise for profit, performing a commercially useful function and is owned by a majority of persons who are United States citizens or permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, and who are Asian, Black, Hispanic or Native Americans, according to the following definitions:

"Asian" – means persons having origins in any of the original people of the Far East,

Southeast Asia, the Indian subcontinent, or the Pacific Islands.

"African American" or "Black American" means persons having origins in any black racial group of Africa.

"Hispanic" means persons of Spanish or Portuguese culture with origins in Mexico, South of Central America, or the Caribbean Islands regardless of race.

"Native American" means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

### Equal Business Opportunity

It is the policy of the City to promote full and equal business opportunities for all persons doing business with the City, regardless of race, sex or national origin. It is the ultimate goal of this policy to promote an equitable business climate district. The City will seek to increase minority and women participation for contracts that require formal bids. These efforts will be for contracts above \$50,000 as allowed by the Alabama Public Works law. These efforts are designed to help prevent discrimination against minorities and disadvantaged businesses and promote more completion among vendors, suppliers, and contractors of the City of Tuscaloosa.

The City has established a goal of ten to twenty percent (10-20%) of the total construction related expenditures to be provided by minority and disadvantaged business enterprises. While the policy provides for voluntary participation by the City and is dependent upon race-neutral and gender-neutral considerations, contractors are encouraged to comply with the City's policy. The City of Tuscaloosa shall periodically review the policy, including race/gender-neutral remedies, to determine its effectiveness.

### Good Faith Effect

The City require contractors to demonstrate a good faith effort to attain the goal of 10-20% participation of MBE/DBE/WBE's in all levels of the Public Works contracting process. Contractors shall document their efforts to obtain minority and disadvantaged business participation in the bid documents. Contractors should note that failure to document a good faith effort to the satisfaction of the City may subject the contractor to bid rejection for non-responsiveness.

The following process shall constitute a good faith effort under the City's policy:

(1) Contractors deciding to bid on a City project shall submit the MBE/DBE/WBE Documentation Statement and Acknowledgement (Form 1). Submission of Form 1 confirms the commitment of the contractor to participate in the inclusion effort for the project. Form 1 must be submitted to the City of Tuscaloosa Community Development Program Manager with Infrastructure and Public Services/Tuscaloosa Builds no later than seven (7) days prior to the bid, or at the pre-bid conference, whichever is earlier. The City reserves the right to modify the submittal deadline as-needed.

(2) Contractors shall submit MBE/DBE/WBE Bid Solicitation Notice (Form 2). Form 2 must be submitted to the City of Tuscaloosa Community Development Program Manager with

Infrastructure and Public Services/Tuscaloosa Builds no later than seven (7) days prior to the bid, or at the pre-bid conference, whichever is earlier. The City reserves the right to modify the submittal deadline as-needed.

(3) Contractors shall submit a brief plan for achieving the stated MBE/DBE/WBE Participation Goal for his/her trade (Form 3). Form 3 must be submitted in the contractor's sealed bid.

(4) Contractor shall submit a listing of all MBE/DBE/WBE contractors that submitted bids (Form 4). Form 4 must be submitted in the contractor's sealed bid. (Note: In the event a MBE/DBE/WBE contractor submits a bid after the general contractor has sealed the bid, contractors should write on the envelope the name(s) and scope of work of the MBE/DBE/WBE contractor who submitted the bid.)

(5) Contractor shall submit a list of all MBE/DBE/WBE firms the contractor proposes to utilize during the execution of the contract (Form 5). In addition, the contractor shall include on Form 5 all firms that the major subcontractors propose to utilize. Form 5 must be submitted in the contractor's sealed bid.

(6) Contractors shall be required to work in cooperation with the City's consultant in the implementation of this program. Failure to do so, in the discretion of the City, may result in a rejection of bid due to non-responsiveness.

Following compliance with item (6) above, submission of Form 1, Form 2, Form 3, Form 4, and Form 5 at the above-prescribed times shall satisfy the good faith effort requirement. Failure to do so may result in rejection of bid due to non-responsiveness.

#### Additional Administrative Requirements/Procedure

(1) If the successful contractor will be subcontracting less than the stated percentage goal, the Contractor must complete a "MBE/DBE/WBE Unavailability Certification" (Form 6). Form 6 is due once a tentative contract award has been made.

(2) Contractors shall obtain the listing of certified MBE/DBE/WBE business by contacting the City of Tuscaloosa Community Development Program Manager with Infrastructure and Public Services/Tuscaloosa Builds to assist in soliciting MBE/DBW/WBE participation for the project.

(3) Contractors shall not be required to use a MBE/DBE/WBE subcontractor who cannot display reasonable technical and financial qualifications to perform the work in question.

(4) In addition to the above requirements, contractors should note that the City reserves the right to periodically audit payroll records to ensure compliance with the program. The City employs the services of a Compliance Director.

(5) Upon completion of the project and prior to release of retainage or final payment, the contractor shall submit a Project Closeout Report (Form 7) that includes final accounting of all MBE/DBE/WBE firms utilized on the project.

(6) On a monthly basis, contractors shall submit updated MBE/DBE/WBE reports (Monthly Report Form) to identify any changes in MBE/DBE/WBE firm utilization (Form 8). Contractors shall submit Form 8 directly to the City of Tuscaloosa Community Development Program Manager with Infrastructure and Public Services/Tuscaloosa Builds.

### Race/Gender – Neutral Remedies

The City recognizes that race/gender – neutral remedies may be effective tools used to increase MBE/DBE/WBE participation. Therefore, the City will continue to explore these remedies. The remedies will include, but will not be limited to, the following:

1. Technical assistance techniques to identify and increase the participation of MBE/DBE/WBE's in the City's contracting, subcontracting and purchasing opportunities.
2. Continuation of the certification process.

The City will periodically review the success of these measures in order to determine the extent to which the measures provide equitable access to the City's contracting, subcontracting and purchasing opportunities.

The City has determined that this policy complies with all applicable local, state and national laws concerning the contracting and purchasing process. The City shall not sacrifice product quality for lower pricing, but shall make all awards in accordance with applicable law. It shall be the primary responsibility of the City to insure that this policy is followed, and that all actions regarding the contracting and purchasing process comply with all applicable statutes as well as the defined goals relative to MBE/DBE/WBE participation on all construction projects.

#### Contact Information:

Caramyl Drake  
Community Development Program Manager  
Infrastructure and Public Services/Tuscaloosa Builds  
City of Tuscaloosa  
Phone: (205) 248-5725  
[cdrake@tuscaloosa.com](mailto:cdrake@tuscaloosa.com)

**Form 1 (one page)**  
**Documentation Statement and Acknowledgement**

(Due no later than seven (7) days prior to the bid, or at the pre-bid  
conference, whichever is earlier)

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PROJECT NAME: \_\_\_\_\_

FILE NO.: \_\_\_\_\_ ENGINEERING PROJECT NO.: \_\_\_\_\_

The City of Tuscaloosa has adopted a program to encourage the participation of Minority Business Enterprises/Disadvantaged Business Enterprises (MBE/DBE/WBE) on its public works construction projects. The signed statement serves as a commitment by the undersigned company to comply with this program as outlined by the City, relative to the involvement of MBE/DBE/WBE firm in City guidelines.

The undersigned Company will adhere to City program guidelines set forth to utilize MBE/DBE/WBE businesses in all construction projects, and all program forms (1-8) have been reviewed and understood.

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Company Representative (Signature)

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Date

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Company Representative (Printed)

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Title

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Company Name

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Telephone Number

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City, State, Zip

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Fax Number

Form 2 (6 pages)  
Bid Solicitation Notice

(Due no later than seven (7) days prior to the bid, or at the pre-bid  
Conference, whichever is earlier)

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BID DATA

1. GENERAL CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

CONTACT (S): \_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

2. OWNER: \_\_\_\_\_

3. NAME OF PROJECT: \_\_\_\_\_

FILE NO.: \_\_\_\_\_ ENGINEERING PROJECT NO.: \_\_\_\_\_

4. SCHEDULE PRE-BID MEETING

DATE/TIME: \_\_\_\_\_

LOCATION: \_\_\_\_\_

5. DATE/TIME FOR RECEIPT OF BIDS: \_\_\_\_\_

6. SCHEDULE BID OPENING

DATE/TIME: \_\_\_\_\_

LOCATION: \_\_\_\_\_

7. ESTIMATED JOB START DATE: \_\_\_\_\_

8. ESTIMATED COMPLETION DATE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

LOCATION: \_\_\_\_\_

BID DATE: \_\_\_\_\_

GENERAL CONTRACTOR CONTACT:

NAME \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: ( ) \_\_\_\_\_

FAX: ( ) \_\_\_\_\_

EMAIL: ( ) \_\_\_\_\_

**DEADLINE FOR PROPOSALS**

DATE/TIME \_\_\_\_\_

\* Estimated Contract Opportunity Value:  
{1} 0-25,000 {2} 25,000-50,000 {3} 50,000-100,000 {4} 100,000 - 500,000 {5} over 500,000

**DIVISION 02 – EXISTING CONDITIONS  
{1} {2} {3} {4} {5} \***

- 02 21 SURVEYS
- 02 32 GEOTECHNICAL INVESTIGATIONS
- 02 41 DEMOLITION
- 02 42 REMOVAL and SALVAGE of CONSTRUCTION MATERIALS
- 02 43 STRUCTURE MOVING
- 02 56 SITE CONTAINMENT
- 02 85 UNDERGROUND STORAGE TANK REMOVAL
- 02 81 TRANSPORTATION and DISPOSAL of HAZARDOUS MATERIALS
- 02 82 ASBESTOS REMEDIATION
- 02 83 LEAD REMEDIATION
- 02 85 MOLD REMEDIATION
- 02 91 CHEMICAL SAMPLING, TESTING and ANALYSIS

02 \_\_\_\_\_  
(Please fill-in other opportunity)

**DIVISION 3 - CONCRETE {1} {2} {3} {4} {5}**

- 03 01 MAINTENANCE OF CONCRETE
- 03 11 CONCRETE FORMING
- 03 15 CONCRETE ACCESSORIES
- 03 21 REINFORCING STEEL
- 03 22 WELDED WIRE FABRIC REINFORCING

- 03 30 CAST-IN-PLACE CONCRETE
- 03 31 STRUCTURAL CONCRETE
- 03 35 CONCRETE FINISHING
- 03 37 SPECIALTY PLACED CONCRETE
- 03 39 CONCRETE CURING
- 03 41 PRECAST STRUCTURAL CONCRETE
- 03 45 PRECAST ARCHITECTURAL CONCRETE
- 03 47 SITE-CAST CONCRETE
- 03 62 NON-SHRINK GROUTING
- 03 63 EPOXY GROUTING
- 03 81 CONCRETE CUTTING
- 03 82 CONCRETE BORING
- 03 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 4 - MASONRY {1} {2} {3} {4} {5}**

- 04 21 CLAY UNIT MASONRY
- 04 22 CONCRETE UNIT MASONRY
- 04 25 UNIT MASONRY PANELS
- 04 30 MULTIPLE-WYTHE MASONRY
- 04 43 STONE MASONRY
- 04 67 MASONRY FIREPLACES
- 04 71 MANUFACTURED BRICK MASONRY
- 04 73 MANUFACTURED STONE MASONRY
- 04 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 5 - METALS {1} {2} {3} {4} {5}**

- 05 12 STRUCTURAL STEEL FRAMING
- 05 14 STRUCTURAL ALUMINUM FRAMING
- 05 15 WIRE ROPE ASSEMBLIES
- 05 21 STEEL JOIST FRAMING
- 05 31 STEEL DECKING
- 05 35 RACEWAY DECKING ASSEMBLIES
- 05 41 STRUCTURAL METAL STUD FRAMING
- 05 42 COLD-FORMED METAL JOIST FRAMING
- 05 44 COLD-FORMED METAL TRUSSES
- 05 51 METAL STAIRS
- 05 52 METAL RAILINGS
- 05 53 METAL GRATINGS
- 05 55 METAL STAIR TREADS & NOSING
- 05 56 METAL CASTINGS
- 05 58 FORMED METAL FABRICATIONS
- 05 71 DECORATIVE METAL STAIRS
- 05 73 DECORATIVE METAL RAILINGS
- 05 75 DECORATIVE FORMED METAL
- 05 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 6 – WOODS, PLASTICS & COMPOSITES  
{1} {2} {3} {4} {5}**

- 06 11 WOOD FRAMING

- 06 12 STRUCTURAL PANELS
- 06 15 WOOD DECKING
- 06 16 SHEATING
- 06 17 SHOP FABRICATED STRUCTURAL WOOD
- 06 22 MILLWORK
- 06 25 PREFINISHED PANEL
- 06 26 PANELING
- 06 43 WOOD STAIRS & RAILINGS
- 06 44 ORNAMENTAL WOODWORK
- 06 48 WOOD FRAMES
- 06 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 7 – THERMAL & MOISTURE PROTECTION**  
 {1} {2} {3} {4} {5}

- 07 11 DAMPPROOFING
- 07 12 BUILT-UP BITUMINOUS WATERPROOFING
- 07 13 SHEET WATERPROOFING
- 07 16 CEMENTIOUS & REACTIVE WATERPROOFING
- 07 19 WATER REPELLANTS
- 07 21 THERMAL INSULATION
- 07 22 ROOF & DECK INSULATION
- 07 24 EXTERIOR INSULATION & FINISH SYSTEMS
- 07 25 WEATHER BARRIERS
- 07 26 VAPOR RETARDERS
- 07 31 SHINGLES & SHAKES
- 07 32 ROOF TILES
- 07 33 NATURAL ROOF COVERINGS
- 07 41 ROOF PANELS
- 07 42 WALL PANELS
- 07 46 SIDING
- 07 51 BUILT-UP BITUMINOUS ROOFING
- 07 52 MODIFIED BITUMINOUS MEMBRANE ROOFING
- 07 53 ELASTOMETRIC MEMBRANE ROOFING
- 07 54 THERMOPLASTIC MEMBRANE ROOFING
- 07 56 FLUID APPLIED ROOFING
- 07 58 ROLL ROOFING
- 07 61 SHEET METAL ROOFING
- 07 65 FLEXIBLE FLASHING
- 07 71 ROOF SPECIALTIES
- 07 72 ROOF ACCESSORIES
- 07 81 APPLIED FIREPROOFING
- 07 84 FIRESTOPPING
- 07 91 PREFORMED JOINT SEALS
- 07 92 JOINT SEALANTS
- 07 95 EXPANSION CONTROL
- 07 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 8 - OPENINGS {1} {2} {3} {4} {5}**

- 08 11 METAL DOORS & FRAMES
- 08 12 METAL FRAMES
- 08 13 METAL DOORS
- 08 14 WOOD DOORS
- 08 16 COMPOSITE DOORS
- 08 17 INTEGRATED DOOR OPENING ASSEMBLIES
- 08 31 ACCESS DOORS & PANELS
- 08 32 SLIDING GLASS DOORS
- 08 33 COILING DOORS & GRILLES
- 08 34 SPECIAL FUNCTION DOORS
- 08 36 PANEL DOORS
- 08 38 TRAFFIC DOORS
- 08 41 ENTRANCES & STOREFRONTS
- 08 42 ENTRANCES
- 08 43 STOREFRONTS
- 08 44 CURTAIN WALL & GLAZED ASSEMBLIES
- 08 51 METAL WINDOWS
- 08 52 WOOD WINDOWS
- 08 53 PLASTIC WINDOWS
- 08 54 COMPOSITE WINDOWS
- 08 56 SPECIAL FUNCTION WINDOWS
- 08 62 UNIT SKYLIGHTS
- 08 63 METAL-FRAMED SKYLIGHTS
- 08 71 DOOR HARDWARE
- 08 74 ACCESS CONTROL HARDWARE
- 08 75 WINDOW HARDWARE
- 08 79 HARDWARE ACCESSORIES
- 08 81 GLASS GLAZING
- 08 83 MIRRORS
- 08 84 PLASTIC GLAZING
- 08 88 SPECIAL FUNCTION GLAZING
- 08 91 LOUVERS
- 08 95 VENTS
- 08 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 9 - FINISHES {1} {2} {3} {4} {5}**

- 09 21 PLASTER & GYPSUM ASSEMBLIES
- 09 22 SUPPORTS FOR PLASTER & GYPSUM
- 09 23 GYPSUM PLASTERING
- 09 24 CEMENT PLASTERING
- 09 26 VENEER PLASTERING
- 09 28 BACKING S & UNDERLAYMENTS
- 09 29 GYPSUM
- 09 30 TILING
- 09 51 ACOUSTICAL CEILINGS
- 09 54 SPECIALTY CEILINGS
- 09 62 SPECIALTY FLOORING
- 09 63 MASONRY FLOORING
- 09 64 WOOD FLOORING

- 09 65 RESILIENT FLOORING
- 09 66 TERRAZZO FLOORING
- 09 68 CARPETING
- 09 72 WALL COVERINGS
- 09 77 SPECIAL WALL SURFACING
- 09 91 PAINTING
- 09 93 STAINING & TRANSPARENT FINISHING
- 09 96 HIGH PERFORMANCE COATINGS
- 09 97 SPECIAL COATINGS
- 09 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 10 - SPECIALTIES {1} {2} {3} {4} {5}**

- 10 11 VISUAL DISPLAY UNITS
- 10 14 SIGNAGE
- 10 22 PARTITIONS
- 10 26 WALL & DOOR PROTECTION
- 10 28 TOILET, BATH & LAUNDRY ACCESSORIES
- 10 44 FIRE PROTECTION SPECIALTIES
- 10 51 LOCKERS
- 10 71 EXTERIOR PROTECTION
- 10 74 MANUFACTURED EXTERIOR SPECIALTIES
- 10 75 FLAGPOLES
- 10 81 PEST CONTROL DEVICES
- 10 88 SCALES
- 10 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 11 - EQUIPMENT {1} {2} {3} {4} {5}**

- 11 11 VEHICLE SERVICE EQUIPMENT
- 11 12 PARKING CONTROL EQUIPMENT
- 11 13 LOADING DOCK EQUIPMENT
- 11 14 PEDESTRIAN CONTROL EQUIPMENT
- 11 24 MAINTENANCE EQUIPMENT
- 11 31 RESIDENTIAL APPLIANCES
- 11 33 RETRACTABLE STAIRS
- 11 41 FOODSERVICE STORAGE EQUIPMENT
- 11 42 FOOD PREPARATION EQUIPMENT
- 11 43 FOOD DELIVERY CARTS AND CONVEYORS
- 11 44 FOOD COOKING EQUIPMENT
- 11 46 FOOD DISPENSING EQUIPMENT
- 11 47 ICE MACHINES
- 11 48 CLEANING & DISPOSAL EQUIPMENT
- 11 52 AUDIO-VISUAL EQUIPMENT
- 11 53 LABORATORY EQUIPMENT
- 11 66 ATHLETIC EQUIPMENT
- 11 67 RECREATIONAL EQUIPMENT
- 11 82 SOLID WASTE HANDLING
- 11 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 12 - FURNISHINGS {1} {2} {3} {4} {5}**

- 12 21 WINDOW BLINDS
- 12 22 CURTAINS & DRAPES
- 12 23 INTERIOR SHUTTERS
- 12 24 WINDOW SHADES
- 12 32 MANUFACTURED CASEWORK
- 12 35 SPECIALTY CASEWORK
- 12 36 COUNTERTOPS
- 12 46 FURNISHING ACCESSORIES
- 12 48 RUGS & MATS
- 12 51 OFFICE FURNITURE
- 12 52 SEATING
- 12 54 HOSPITALITY FURNITURE
- 12 56 INSTITUTIONAL FURNITURE
- 12 61 FIXED AUDIENCE SEATING
- 12 63 STADIUM & ARENA SEATING
- 12 67 PEWS & BENCHES
- 12 92 INTERIOR PLANTERS & ARTIFICIAL PLANTS
- 12 93 SITE FURNISHINGS
- 12 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 13 - SPECIAL CONSTRUCTION {1} {2} {3} {4} {5}**

- 13 11 SWIMMING POOLS
- 13 17 TUBS & POOLS
- 13 18 ICE RINKS
- 13 21 CONTROLLED ENVIRONMENT ROOMS
- 13 24 SPECIAL ACTIVITY ROOMS
- 13 28 ATHLETIC & RECREATIONAL SPECIAL CONSTRUCTION
- 13 31 FABRIC STRUCTURES
- 13 34 FABRICATED ENGINEERED STRUCTURES
- 13 36 TOWERS
- 13 42 BUILDING MODULES
- 13 48 SOUND, VIBRATION, & SEISMIC CONTROL
- 13 49 RADIATION PROTECTION
- 13 \_\_\_\_\_

(Please fill-in for other opportunity)

**DIVISION 14 - CONVEYING SYSTEMS {1} {2} {3} {4} {5}**

- 14 11 MANUAL DUMBWAITERS
- 14 12 ELECTRIC DUMBWAITERS
- 14 21 ELECTRIC TRACTION ELEVATORS
- 14 24 HYDRAULIC ELEVATORS
- 14 27 CUSTOM ELEVATOR CABS & DOORS
- 14 28 ELEVATOR EQUIPMENT & CONTROLS
- 14 31 ESCALATORS

- 14 32 MOVING WALKS
- 14 42 WHEELCHAIR LIFTS
- 14 51 CORRESPONDENCE & PARCEL LIFTS
- 14 91 FACILITY CHUTES
- 14 92 PNEUMATIC TUBE SYSTEMS
- 14 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 21 –FIRE SUPPRESSION {1} {2} {3} {4} {5}**

- 21 11 FIRE-SUPPRESSION WATER SERVICE PIPING &METHODS
- 21 12 FIRE SUPPRESSION STANDPIPES
- 21 13 FIRE SUPPRESSION SPRINKLER SYSTEMS
- 21 21 CARBON-DIOXIDE FIRE EXTINGUISHING SYSTEMS
- 21 22 CLEAN AGENT FIRE EXTINGUISHING SYSTEMS
- 21 31 CENTIFUGAL FIRE PUMPS
- 21 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 22-PLUMBING {1} {2} {3} {4} {5}**

- 22 07 PLUMBING INSULATION
- 22 11 FACILITY WATER DISTRIBUTION
- 22 13 FACILITY SANITARY SEWERAGE
- 22 14 FACILITY STORM DRAINAGE
- 22 41 COMMERCIAL PLUMBING FIXTURE
- 22 42 COMMERCIAL PLUMBING FIXTURES
- 22 45 EMERGENCY PLUMBING FIXTURES
- 22 47 DRINKING FOUNTAINS & WATER COOLERS
- 22 51 SWIMMING POOL PLUMBING SYSTEMS
- 22 66 CHEMICAL-WASTE SYSTEMS FOR LAB & HEALTHCARE FACILITIES
- 22 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 23-HEATING VENTILATION AIR CONDITIONING {1} {2} {3} {4} {5}**

- 23 07 HVAC INSULATION
- 23 09 INSTRUMENTATION & CONTROL FOR HVAC
- 23 13 FACILITY FUEL-STORAGE TANKS
- 23 21 HYDRONIC PIPING & PUMPS
- 23 22 STEAM & CONDENSATE PIPING & PUMPS
- 23 31 HVAC DUCTS & CASINGS
- 23 33 AIR DUCT ACCESSORIES
- 23 34 HVAC FANS
- 23 37 AIR OUTLETS & INLETS
- 23 38 VENTILATION HOODS

- 23 41 PARTICULATE AIR FILTRATION
- 23 52 HEATING BOILERS
- 23 54 FURNACES
- 23 56 SOLAR ENERGY HEATING EQUIP.
- 23 57 HEAT EXCHANGES FOR HVAC
- 23 62 PACKAGED COMPRESSOR & CONDENSOR UNITS
- 23 63 REFRIGERANT CONDENSORS
- 23 64 PACKAGED WATER CHILLERS
- 23 65 COOLING TOWERS
- 23 73 INDOOR CENTRAL-STATION AIR-HANDLING UNITS
- 23 74 PACKAGED OUTDOOR HVAC EQUIP
- 23 82 CONVECTION HEATING & COOLING UNITS
- 23 84 HUMIDITY CONTROL EQUIPMENT
- 23 \_\_\_\_\_  
(Please fill-in for other opportunity)

**DIVISION 26-ELECTRICAL {1} {2} {3} {4} {5}**

- 26 09 INSTRUMENTATION & CONTROL FOR ELECTRICAL SYSTEMS
- 26 12 MEDIUM VOLTAGE TRANSFORMERS
- 26 22 LOW VOLTAGE TRANSFORMERS
- 26 24 SWITCHES & PANELS
- 26 25 ENCLOSED BUS ASSEMBLIES
- 26 27 LOW VOLTAGE DISTRIBUTION EQUIPMENT
- 26 28 LOW VOLTAGE CIRCUIT PROTECTIVE DEVICES
- 26 29 LOW VOLTAGE CONTROLLERS
- 26 32 PACKAGED GENERATOR ASSEMBLIES
- 26 35 POWER FILTERS & CONDITIONERS
- 26 42 CATHODIC PROTECTION
- 26 51 INTERIOR LIGHTING
- 26 52 EMERGENCY LIGHTING
- 26 53 EXIT SIGNS
- 26 54 CLASSIFIED LOCATION LIGHTING
- 26 55 SPECIAL PURPOSE LIGHTING
- 26 56 EXTERIOR LIGHTING
- 26 61 LIGHTING SYSTEMS & ACCESSORIES
- 26 71 ELECTRICAL MACHINES
- 26 \_\_\_\_\_  
(Please fill-in for other opportunity)

**COMMUNICATIONS- 27 {1} {2} {3} {4} {5}**

- 27 13 COMMUNICATIONS BACKBONE CABLING
- 27 41 AUDIO-VIDEO SYSTEMS
- 27 51 DISTRIBUTED AUDIO VIDEO
- 27 52 HEALTHCARE COMMUNICATIONS & MONITORING SYSTEMS
- 27 53 DISTRIBUTED SYSTEMS

27 \_\_\_\_\_  
(Please fill-in for other opportunity)

**ELECTRONIC SAFETY & SECURITY- 28 {1} {2} {3} {4} {5}**

28 13 COMMUNICATIONS BACKBONE CABLING  
 28 16 INTRUSION DETECTION  
 28 23 VIDEO SURVEILLANCE  
 28 31 FIRE DETECTION  
 28 33 FUEL-GAS DETECTION  
 28 39 MASS NOTIFICATION SYSTEMS  
 28 \_\_\_\_\_  
(Please fill-in for other opportunity)

**EARTHWORK-31 {1} {2} {3} {4} {5}**

31 06 SCHEDULES FOR EARTHWORK  
 31 11 CLEARING & GRUBBING  
 31 13 SELECTIVE TREE & SHRUB REMOVAL & TRIMMING  
 31 14 EARTH STRIPPING & STOCKPILING  
 31 22 GRADING  
 31 23 EXCAVATION & FILL  
 31 25 ERSION & SEDIMENTATION  
 31 31 SOIL TREATMENT  
 31 32 SOIL STABILIZATION  
 31 33 ROCK STABILIZATION  
 31 36 GABIONS  
 31 37 RIPRAP  
 31 41 SHORING  
 31 43 CONCRETE RAISING  
 31 45 VIBROFLORATION & DENSIFICATION  
 31 46 NEEDLE BEAMS  
 31 48 UNDERPINNING  
 31 52 COFFERDAMS  
 31 56 SHURRY WALLS  
 31 62 DRIVEN PILES  
 31 63 BORED PILES  
 31 \_\_\_\_\_  
(Please fill-in for other opportunity)

**EXTERIOR IMPROVEMENTS- 32 {1} {2} {3} {4} {5}**

32 11 BASE COURSES  
 32 12 FLEXIBLE PAVING  
 32 13 RIGID PAVING  
 32 16 CURBS, GUTTERS SIDEWALKS & DRIVEWAYS  
 32 17 PAVING SPECIALTIES  
 32 18 ATHLETIC & RECREATIONAL SURFACING  
 32 31 FENCES & GATES  
 32 32 RETAINING WALLS  
 32 34 FABRICATED BRIDGES  
 32 35 SCREENING DEVICES  
 32 84 PLANTING IRRIGATION  
 32 91 PLANTING PREPARATION  
 32 92 TURF & GRASSES

32 93 PLANTS  
 32 94 PLANTING ACCESSORIES  
 32 96 TRANSPLANTING  
 32 \_\_\_\_\_  
(Please fill-in for other opportunity)

**UTILITIES-33 {1} {2} {3} {4} {5}**

33 11 WATER UTILITY DISTRIBUTION PIPING  
 33 12 WATER UTILITY DISTRIBUTION EQUIPMENT  
 33 16 WATER UTILITY STORAGE TANKS  
 33 21 WATER SUPPLY WELLS  
 33 31 SANITARY UTILITY SEWERAGE PIPING  
 33 36 UTILITY SEPTIC TANKS  
 33 41 STORM UTILITY DRAINAGE PIPING  
 33 42 CULVERTS  
 33 44 STORM UTILITY WATER DRAINS  
 33 46 SUBDRAINAGE  
 33 49 STORM DRAINAGE STRUCTURES  
 33 51 NATURAL GAS DISTRIBUTION  
 33 52 LIQUID FUEL DISTRIBUTION  
 33 71 ELECTRICAL UTILITY TRANSMISSION & DISTRIBUTION  
 33 81 COMMUNICATIONS & STRUCTURES  
 33 \_\_\_\_\_  
(Please fill-in for other opportunity)

**TRANSPORATION-34 {1} {2} {3} {4} {5}**

34 11 RAIL TRACKS  
 34 41 ROADWAY SIGNALING AND CONTROL EQUIPMENT  
 34 71 ROADWAY CONSTRUCTION  
 34 72 RAILWAY CONSTRUCTION  
 34 \_\_\_\_\_  
(Please fill-in for other opportunity)

**MATERIAL PROCESSING & HANDLING**

**EQUIPMENT-41 {1} {2} {3} {4} {5}**  
 41 21 CONVEYORS  
 41 22 CRANES & HOISTS  
 41 \_\_\_\_\_  
(Please fill-in for other opportunity)

**POLLUTION CONTROL EQUIP-44 {1} {2} {3} {4} {5}**

44 11 PARTICULATE CONTROL EQUIPMENT  
 44 \_\_\_\_\_  
(Please fill-in for other opportunity)

**WATER & WASTEWATER EQUIPMENT-46**

{1} {2} {3} {4} {5}  
 46 07 PACKAGED WATER & WASTEWATER TREATMENT EQUIPMENT  
 46 \_\_\_\_\_  
(Please fill-in for other opportunity)



Form 4  
Contractors Submitting Bids  
(Must be submitted in the contractor's sealed bid)

General Contractor: \_\_\_\_\_

Contact: \_\_\_\_\_

Name of Project: \_\_\_\_\_

File No.: \_\_\_\_\_ Engineering Project No.: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

All MBE/DBE/WBE Firms Submitting Bids

Scope of Work

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FORM 5**  
**CONTRACTORS SUBMITTING BIDS**  
**(Must be submitted in the contractor's sealed bid)**

General Contractor: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Name of Project: \_\_\_\_\_  
File No.: \_\_\_\_\_ Engineering Project No.: \_\_\_\_\_  
Total Contract Amount: \$ \_\_\_\_\_  
Total Amount of All Subcontractors: \$ \_\_\_\_\_  
Date Submitted: \_\_\_\_\_

| <u>All MBE/DBE/WBE firms to be utilized</u> | <u>Scope of Work</u> | <u>Contract Amount</u> |
|---|----------------------|------------------------|
| _____                                       | _____                | _____                  |
| _____                                       | _____                | _____                  |
| _____                                       | _____                | _____                  |
| _____                                       | _____                | _____                  |
| _____                                       | _____                | _____                  |
| _____                                       | _____                | _____                  |
| _____                                       | _____                | _____                  |

(Use additional pages if necessary)

**Form 6**  
**Unavailability Certification**  
**(Must be submitted following tentative bid award)**

I, \_\_\_\_\_(Name/Title), of  
 \_\_\_\_\_(Company) certify that on  
 \_\_\_\_\_(Date) I contacted the following Minority/Disadvantaged Business  
 Enterprise to obtain proposals/bids for the following work items:

| <u>MDE/DBE/WBE Firm</u> | <u>Work Items Sought</u> | <u>Form of Proposal Sought</u> |
|-------------------------|--------------------------|--------------------------------|
| _____                   | _____                    | _____                          |
| _____                   | _____                    | _____                          |
| _____                   | _____                    | _____                          |
| _____                   | _____                    | _____                          |
| _____                   | _____                    | _____                          |

To the best of my knowledge and belief, said Minority/Disadvantaged Business Enterprises were unavailable for work on this project, or unable to prepare a proposal/bid for the following reason(s): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(This form to be completed by each MBE/DBE/WBE listed, which was contacted, but did not submit a bid/proposal)

\_\_\_\_\_ (Name of MBE/DBE/WBE) was offered an opportunity to submit a proposal on the above identified work on \_\_\_\_\_ (Date) by \_\_\_\_\_ (Company Name).

The above statement is a true and accurate account of why I did not submit a proposal/bid on this project.

\_\_\_\_\_ (Signature of MBE/DBE/WBE)

\_\_\_\_\_ (Date)

\_\_\_\_\_ (Title)

(Use additional pages if necessary)

Form 7  
Project Closeout Report  
(To be submitted upon completion of project)

General Contractor: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Name of Project: \_\_\_\_\_  
File No.: \_\_\_\_\_ Engineering Project No.: \_\_\_\_\_  
Total Contract Amount: \$ \_\_\_\_\_  
Final Contract Amount: \$ \_\_\_\_\_  
Date Submitted: \_\_\_\_\_

| <u>All MBE/DBE/WBE firms verified</u> | <u>Original subcontract amount</u> | <u>Final subcontract amount</u> |
|---------------------------------------|------------------------------------|---------------------------------|
| _____                                 | _____                              | _____                           |
| _____                                 | _____                              | _____                           |
| _____                                 | _____                              | _____                           |
| _____                                 | _____                              | _____                           |

**Form 8**  
**Monthly Report Form**  
 (To be submitted monthly directly to the City's consultant)

General Contractor: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Name of Project: \_\_\_\_\_  
 File No.: \_\_\_\_\_ Engineering Project No.: \_\_\_\_\_  
 Total Contract Amount: \$ \_\_\_\_\_  
 Date Submitted: \_\_\_\_\_

**Billings**

| Each MBE/DBE/WBE Contractor utilized | Original subcontract amount | Previous amount | This period amount | Total Amount |
|--------------------------------------|-----------------------------|-----------------|--------------------|--------------|
|                                      |                             |                 |                    |              |
|                                      |                             |                 |                    |              |
|                                      |                             |                 |                    |              |
|                                      |                             |                 |                    |              |
|                                      |                             |                 |                    |              |

(Use additional pages if necessary)