

CONTRACT DOCUMENTS
BID FORM AND SPECIFICATIONS

FOR

Bid No. 006-14

451 Pecan Ave. Building HVAC Renovation

Project No PW003-14

451 Pecan Ave. Building HVAC Renovation

for the

Public Works Department

City of Fairhope, Al

Timothy M Kant, Mayor

Jack Burrell, Council President

Set No. _____

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ITEM I
ADVERTISEMENT

Sealed bids will be received by the City of Fairhope, in Baldwin County, Alabama, at the City of Fairhope offices located at 555 S. Section Street, Fairhope, Alabama, until 2:00 P.M. Tuesday, April 15, 2014, then publicly opened thereafter, for furnishing all labor and materials, and performing all work required by the City of Fairhope and described as follows:

Bid No.	006-14,	451 Pecan Ave. Building HVAC Renovation
Project No.	PW003-14	451 Pecan Ave. Building HVAC Renovation

The work consists of the removal of existing damaged HVAC components; installation of new HVAC components, primarily in office areas. Objective is to restore HVAC service to office areas. ONE HUNDRED TWENTY (120) calendar days are allowed for the construction of the project.

Bid documents will be posted on the City of Fairhope website: www.cofairhope.com or a copy may be obtained by emailing the Purchasing Manager at: dan.ames@cofairhope.com. Specifications are on file and may be seen in the Purchasing Department of the City of Fairhope, Alabama, located at 555 S. Section Street. Prior to opening, Bid packages may be picked up at that location during normal operation, between 7:00 A.M. and 4:00 P.M. local time.

Questions or comments pertaining to this bid must be presented in writing and sent as e-mail to the attention of the Purchasing Manager, Daniel P. Ames at P.O. Drawer 429, Fairhope, AL 36532, or email: dan.ames@cofairhope.com, no later than Seventy-Two hours prior to the bid opening or will be forever waived.

All Bids must be on blank bid forms provided in the Bid documents. Bids shall be accompanied by a BID SECURITY equal to 5% (percent) of the bid price, but in no event more than \$10,000.00. BID SECURITY shall be in the form of a Bid Bond signed by a Bonding company authorized to do business in the State of Alabama, or a Cashier's Check payable to the City of Fairhope. No BID SECURITY is required on bid less than \$10,000.00. **THERE WILL BE A NON-MANDATORY PRE-BID MEETING** at 9:00 AM on Thursday, April 3, 2014 at the Public Utilities and City Services building located at 555 S. Section Street, Fairhope, AL. Site visit to follow.

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

All bids, with their guarantee (when required), must be enclosed in a sealed, opaque envelope, clearly identified on the outside as "**Sealed Bid**" with **Bid Name, Bid Number, City of Fairhope's name and address, and the Bidder's name and address**. Each bid must be in a separate envelope. Bids made out in pencil will not be accepted. Failure to observe the instructions contained herein will constitute grounds for rejection of your bid. The City reserves the right to accept or reject all bids, or any portions thereof, and to waive informalities, and to furnish any item of material or work to change the amount of the **CONTRACT**, whichever is in the best interest of the City of Fairhope.

The **CONTRACTOR** must furnish to the City of Fairhope at the time of the signing of the **CONTRACT**, a Certificate of Insurance coverage as provided in the contract documents which will include Comprehensive Insurance, CONTRACTOR'S Automobile, and where applicable, Owner's Protective Liability insurance, Subcontractor's Public Liability and Property Damage Insurance. The company that is awarded the bid must have Workman's Compensation Insurance on all of its employees if work is to be performed on City of Fairhope premises. General Liability Insurance, specifying coverage, must be maintained to hold the City of Fairhope harmless in the event of an accident. See bid packet for details.

No bids will be considered unless the bidder, whether resident or non-resident of Alabama, is properly qualified to submit a proposal for this type of work in accordance with all applicable laws of the State of Alabama. Where applicable, this shall include evidence of holding a current license from the Alabama Licensing Board for General Contractors, Montgomery, Alabama, as required by Chapter 8, Title 34, of the Code of Alabama, 1975, <http://www.sos.alabama.gov/BusinessServices/ForeignCorps.aspx>. In addition, the awarded vendor, if a non-resident of the State, and if a corporation, Shall show evidence of having qualified with the Secretary of State to do business in the State of Alabama. Bidder must have a current business license, or purchase a business license with the City of Fairhope prior to work performed. No bids shall be withdrawn for the period of thirty (30) days subsequent to the opening of bids without the consent of the City of Fairhope, Baldwin County, Alabama. Once completed, a tabulation of the responsive and responsible bids will be available for public viewing by visiting the following web address: www.cofairhope.com.

Daniel P Ames, Purchasing Manager
City of Fairhope
Posted 3/27/2014

ITEM II
INSTRUCTIONS TO BIDDERS

- 1.00 **BID INVITATION**
Notice is hereby given that the City of Fairhope will receive bids on the project described herein. Qualified bidders are invited to bid on this contract.
- 1.01 **BID NO.** 006-14 451 Pecan Ave. Building HVAC Renovation
PROJECT NO. PW003-14 451 Pecan Ave. Building HVAC Renovation
PROJECT LOCATION 451 Pecan Ave., Fairhope, Al
- 1.02 **SUMMARY:**
Removal of existing damaged HVAC components and installation of new HVAC components, primarily in office areas. Objective is to restore HVAC service to office areas.
- 1.03 **BID DEADLINE**
Sealed bids will be received until 2:00 P.M. local time, Tuesday, April 15, 2014, at the City of Fairhope offices located at 555 S. Section Street, Fairhope, Alabama, and publicly opened shortly thereafter. **If sending by USPS: P.O. Drawer 429, Fairhope, Al 36533.**
- 1.04 **AVAILABILITY OF DOCUMENTS**
Bid documents may be obtained at the City of Fairhope offices located at 555 S. Section St., Fairhope, Alabama. One set of bid documents can be obtained free of charge. The bid packet is also available on the City of Fairhope website: www.cofairhope.com
- 1.05 **INQUIRIES/ADDENDA**
Questions or comments pertaining to this bid must be presented in writing, or sent as e-mail to the attention of the Purchasing Manager, Daniel P. Ames, at P.O. Drawer 429, Fairhope, Al 36633, or email dan.ames@cofairhope.com, no less than Seventy-Two (72) hours prior to the bid opening, or will be forever waived.
- 1.05.1 All Addenda are part of the Contract documents. Include resultant costs in the Bid. Addenda will be issued by email to all plan holders on record and posted on the City's website www.cofairhope.com. It is the responsibility of the bidder to verify that all addenda have been received
- 1.06 **SITE EXAMINATION / CITY PROVISION / NON-RESIDENT STATE RECIPROCITY**
Non-mandatory Pre-bid conference to be held at City of Fairhope offices located at 555 S. Section St., Fairhope, Alabama at 10:00 a.m. on Thursday April 3, 2014 followed by site visit. Bidders can have additional access to the building for measurement purposes by emailing a request to the Purchasing Manager for an agreed upon time.
- 1.06.1 The City of Fairhope will not furnish any labor, material or supplies unless specifically stated in the Contract documents. Contractor must be properly licensed to perform the work as outlined in the Scope of Work. Bidder must have a current business license, or purchase a business license with the City of Fairhope prior to or (upon) bid being awarded. Where required by State law, State of Alabama Contractor's license is required.
- 1.06.2 Except for contracts funded in whole or in part by funds received from a federal agency, preference shall be given to resident contractors on the same basis as the non-resident bidder's state awards contracts to Alabama contractors bidding under similar circumstances. Therefore, non-resident bidders shall submit with their bid a written opinion of an attorney at law licensed to practice law in the non-residents bidder's state of domicile as to preferences granted by the state to entities doing business in that state when letting public contracts.
- 1.07 **BID SECURITY**
The bidder shall be required to file with his or her bid either a cashier's check drawn on an Alabama bank or a bid bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama, payable to the City of Fairhope for an amount not less than five percent of the awarding authority's estimated cost or of the contractor's bid, but in no event more than ten thousand dollars (\$10,000).

- 1.08 **PERFORMANCE ASSURANCE AND INSURANCE**
The bidder to whom award is made shall provide a Performance Bond equal to 100% (percent) of the Contract amount and a Labor and Materials Bond equal to 50% (percent) of the Contract amount. The accepted Bidder shall also provide insurance as required in section titled ITEM VII INSURANCE.
- 1.09 **DURATION OF OFFER**
Bids may be withdrawn by written or telegraphic request received from the bidder prior to the time fixed for opening. No bid shall be withdrawn for a period of THIRTY (30) days subsequent to the opening of bid without the consent of the City Council of the City of Fairhope.
- 1.10 **EQUAL OPPORTUNITY**
The City of Fairhope is an Equal Opportunity Employer and requires that all contractors comply with the Equal Employment Opportunity Laws and the provisions of the Contract documents in this regard. The City also encourages and supports the utilization of Minority Business Enterprises on this and all public bids.
- 1.11 **BID SUBMISSION AND PREPARATION**
Sealed Bids, signed, executed, and dated will be received by the City of Fairhope as noted in section 1.03 above. Submit one copy of the executed offer, on the Bid Form provided, along with the required Bid Security. The bid shall be enclosed in a sealed opaque envelope approximately 9X12 inches or larger, clearly identified on the outside as a SEALED BID with PROJECT NUMBER, PROJECT NAME, OWNER'S NAME AND ADDRESS, BIDDER'S NAME AND ADDRESS, BIDDER'S LICENSE NUMBER.
- 1.11.1 Forms furnished, or copies thereof, shall be used, and strict compliance with the requirements of the Invitation, these instructions, and the instructions printed on the forms is necessary. Special care should be exercised in the preparation of bids. Bidders must make their own estimates of the facilities and difficulties attending the performance of the proposed contract, including local conditions, uncertainty of weather, and all other contingencies. All designations and prices shall be fully and clearly set forth. The proper space in the bid and guaranty forms shall be suitable filled in.
- 1.11.2 Fill in all blanks on the Bid Form with non-erasable ink or type. Erasers or other changes must be explained or noted over the signature of the bidder.
- 1.11.3 The Bid Form may have a Contingency Allowance listed. Add this amount to the Bid Base to derive the Total Bid. The Contingency Allowance covers unforeseen conditions and shall not be used by the Contractor without the written authorization of the Owner. At the conclusion of the project, the unused portion of the Contingency Allowance shall revert to the Owner.
- 1.11.4 Each bid must give the full business address of the bidder and must be signed by him with his usual signature. Bids by partnerships must furnish the full names of all names of all partners and must be signed with the partnership name by one of the members of the partnership, or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the partnership name by one of the members of the partnership, or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the legal name of the corporation followed by the name of the State of Incorporation and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person who affixes to this signature the word "president", "secretary", "agent", or other designation without disclosing his principal, may be held to be the bid of the individual signing. When requested by the City of Fairhope, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.
- 1.11.5 Each project will be bid separately unless otherwise expressly requested in the contract document. Combination bids, that is, bids on separate projects lumped together as a single bid or on all or none basis, will not be accepted unless the contract document expressly requests or

permits same. Alternate bids will not be considered unless requested. Bidders are to provide with their bid, a reference list to include name/address/phone number.

- 1.12 **BID INELIGIBILITY**
Bids that contain irregularities of any kind may be declared unacceptable at the discretion of the Owner. The Owner may waive any minor irregularities and may reject any or all bids. Bids received after the deadline will be returned to the bidder unopened.
- 1.13 **CONTRACT TIME**
The contractor agrees to perform the work within the time stated in the Bid Form. The bidder in submitting an offer accepts the conditions of the contract period stated for performing the work.
- 1.14 **CONSTRUCTION DOCUMENT IDENTIFICATION**
The Construction documents are the Bid Packet, Drawings, Addenda, and all other related documents bearing the Project Title and Number. Bidders shall use complete sets of Construction Documents in preparing their Bids. The City will not assume responsibility for errors or misinterpretation resulting from the use of incomplete sets of Construction Documents.
- 1.16 **BID ACCEPTANCE**
Bid with lowest Total Bid amount from a responsive and responsible bidder may be accepted if within the Contract Budget. In the event that alternates are listed on the Bid Form, the lowest combination of Total Bid and Alternate Bids accepted by the owner shall be the accepted bid. Alternates shall be awarded in the order in which they are listed on the Bid Form.
- 1.17 **BIDDERS INTERESTED IN MORE THAN ONE BID**
If more than one bid is offered by any one party, by or in a name of his clerk, partner, corporation in which he has a substantial interest, or in which he is an officer, or other person, all such bids may be rejected. A party who has quoted prices on materials to a bid is not thereby disqualified from quoting prices to other bidders or from submitting a bid directly for the materials or work. The City reserves the right to determine in its discretion whether the provisions of this clause have been violated by any bidder.
- 1.18 **ERRORS IN BIDS**
Bidders or their authorized agents are expected to examine the maps, drawings, specifications, and all other instructions pertaining to the work, which will be open to their inspection. Failure to do so will be at the bidder's own risk. In case of error, in the extension of prices the unit price will govern.
- 1.19 **CONTRACT AND BOND**
The bidder to whom award is made must, when requested, enter into written contract on the standard form as set out herein, with satisfactory security in the amount required, within the period specified, or, if no period be specified, within 15 days after the required forms are presented for signature.
- 1.20 **COLLUSION**
If there is any reason for believing that collusion exists among the Bidders, any or all bids may be rejected, and those participating in such collusion may be barred from submitting bids on the same or other work with the City.
- 1.21 **SUBLETTING OR ASSIGNING OF CONTRACT**
Limitations: The contractor shall not sublet, assign, transfer, convey, sell or otherwise dispose of any portions of the contract, his right, title, or interest therein, or his power to execute such contract, to any person, firm or corporation without written consent of the City, and such written consent shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract. Unless otherwise stipulated in the proposal or special provisions, the contractor shall perform with his own organization, and with the assistance of workmen under his immediate superintendence and reported on his payroll, all contract work of a value not less than 50 percent of the total contract amount, except that any items designated in the contract as "Specialty Items" so performed by sub-contract may be deducted from the total contract amount before computing the amount of work required to be performed by the Contractor with his own organization.

1.21.1 Sub-contractor's Status: A Sub-contractor shall be recognized only in the capacity of an employee or agent of the Contractor and the Contractor will be responsible to the City for all of the subcontractor's work, including failures or omissions; and his removal may be required by the Project Manager, as in the case of an employee.

1.22 PROSECUTION OF WORK

The Contractor shall commence work within 10 days of issuance of the *Notice to Proceed* (NTP) by the Project Manager or as otherwise directed in writing.

1.22.1 The Contractor shall prosecute the work continuously and diligently in the order and manner set out in his schedule as approved by the Project Manager. He shall provide sufficient satisfactory materials, labor, and equipment to insure that the work will be completed in a satisfactory manner within the time specified in the contract.

1.22.2 Should the Contractor fail to maintain a satisfactory rate of progress, the Project Manger may require that additional forces and/or equipment be placed on the work to bring the project up to schedule and maintain it at that level.

1.22.3 Should the Contract fail to furnish sufficient satisfactory equipment and/or labor for maintaining the quality and progress of the work at satisfactory level, the Project Manager may withhold all estimates that may become due until satisfactory quality and progress are maintained; or the contract may be annulled.

123.0 SALES TAX EXEMPTION REQUIREMENTS AND PROCEDURE

At the time of Bid, provide an accounting of sales tax on the form provided in ITEM III BID RESPONSE FORM. Failure to provide an accounting of sales tax shall render the bid non-responsive. Other than **determining responsiveness**, sales tax shall accounting shall not affect the bid pricing nor be considered in the determination of the lowest responsible and responsive bidder.

123.1. BACKGROUND

Legislative Act 2013-205, Code of Alabama (1975) Section 40-9-14.1, is applicable to certain construction contracts with the City of Fairhope, Alabama. This law allows a sales and use tax exemption when applicable, all business entities entering into construction contracts with the City of Fairhope, Alabama, will comply with the requirements of Section 40-9-14.1.

Code of Alabama (1975) Section 40-9-14.1

Certificates of exemption to governmental entities, contractors, etc., for certain tax exempt projects.

(a) For the purposes of this section, the term governmental entity means the State of Alabama and its political subdivisions, including a county, a municipality, and an industrial or economic development board or authority. A governmental entity shall also include an educational institution of any of the foregoing Alabama political subdivisions including a public college or university, a county or city board of education, and the State Board of Education.

(b)(1) The Department of Revenue shall issue a certificate of exemption to the governmental entity for each tax exempt project.

(2) The Department of Revenue shall grant a certificate of exemption from state and local sales and use taxes to any contractor licensed by the State Licensing Board for General Contractors, or any subcontractor working under the same contract, for the purchase of building materials, construction materials and supplies, and other tangible personal property that becomes part of the structure that is the subject of a written contract for the construction of a building or other project, not to include any contract for the construction of any highway, road, or bridge, for and on behalf of a governmental entity which is exempt from the payment of sales and use taxes.

(c) The use of a certificate of exemption for the purchase of tangible personal property pursuant to this section shall include only tangible personal property that becomes part of the structure that is the subject of the construction contract. Any contractor or subcontractor purchasing any tangible personal property pursuant to a certificate of exemption shall maintain an accurate cost accounting of the purchase and use of the property in the construction of the project.

(d) A contractor who has an exemption from sales and use tax for the purchase of materials to use on a government project shall file, in a manner as prescribed by the department, reports of all

exempt purchases. The reports shall be filed as a prerequisite to renewal of a certificate of exemption.

(e)(1) The department may assess any contractor or subcontractor with state and local sales or use taxes on any item purchased with a certificate of exemption not properly accounted for and reported as required.

(2) Any contractor or subcontractor who intentionally uses a certificate of exemption in violation of this section shall, in addition to the actual sales or use tax liability due, be subject to a civil penalty levied by the department in the amount of not less than a minimum of two thousand dollars (\$2,000) or two times any state and local sales or use tax due for the property and, based on the contractor's or subcontractor's willful misuse of the certificate of exemption, may be barred from the use of any certificate of exemption on any project for up to two years.

(f) The department may adopt rules to implement this section in order to effectuate the purposes of this section and to provide for accurate accounting and enforcement of this section.

(g) In bidding the work on a tax exempt project, the bid form shall provide for an accounting for the tax savings.

(h) The intent of this section is to lower the administrative cost for the governmental entity, contractor, and subcontractor for public works projects. It is not the intent of this section to change the basis for determining professional services from fair market value, which may include sales and use taxes.

(i) This section shall be operative for contracts entered into January 1, 2014, or thereafter, and shall not apply to any contract entered into prior to January 1, 2014. In addition, this section shall not apply to any contract change orders or contract extensions, including revised, renegotiated, or altered contracts, when the original contract was entered into prior to January 1, 2014. The Department of Revenue may adopt rules to implement this section after October 1, 2013. (Act 2013-205, §1.)

123.2 PROCEDURE

- 123.2.1 Each contractor and subcontractor must make application for qualification of the Sales and Use Tax exemption using Alabama Dept. of Revenue Form ST: EXC-01 for each tax-exempt project. The application is available on the Alabama Dept. of Revenue's website at <http://revenue.alabama.gov/salestax/ST-EXC-01.pdf>. Applications should be submitted directly to the Sales and Use Tax Division Central Office, P.O. Box 327710, Montgomery, AL 36132-7710.
- 123.2.2 Legislative Act 2013-205 requires the Department of Revenue to issue Form STC-1, *Sales and Use Tax Certificate of Exemption for Government Entity Projects*, to all contractors and subcontractors working on qualifying governmental entity projects once the Form ST: EXC-01 is approved.
- 123.2.3 Contractors and sub-contractors for qualifying projects will be required to file monthly consumers use tax returns and report all exempt purchases for ongoing projects, as well as all taxable purchases on one return. These returns are required to be filed through the Alabama Dept. of Revenue's online tax return filing and payment portal, My Alabama Taxes (<https://myalabamataxes.alabama.gov>).

NOTARY FOR INDIVIDUAL

STATE OF _____ }

COUNTY OF _____ }

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

_____ as _____ of _____
Print name of Bid signer Title Print Company name

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

Given under my hand and Notary Seal on this _____ day of _____, 2014.

Notary Public _____

My Commission Expires ___/___/___

IF CORPORATION, PARTNERSHIP, OR JOINT VENTURE

Name of Corporation, Partnership or Joint Venture

BY: _____
(SIGNATURE of Officer authorized for sign Bids and Contracts for the firm) (Position or Title)

(PRINT name of Officer authorized for sign Bids and Contracts for the firm)

(PRINT NAME(S) OF OTHERS IF IN PARTNERSHIP)

Business

Business Mailing Address

City, State, Zip Code

Phone E-Mail _____

GENERAL CONTRACTOR'S LICENSE _____ Foreign Corporation Entity ID _____
(Required of Out of State Vendors)

THIS MUST BE NOTARIZED

ACCOUNTING OF SALES TAX Attachment to Bid Response

To: City of Fairhope

Date: ___/___/___

Project: PW003-14, 451 Pecan Ave. Building HVAC Renovation

Sales Tax Accounting

Pursuant to **Code of Alabama (1975) Section 40-9-14.1** the Contractor accounts for the sales tax NOT included in the bid proposal form as follows:

ESTIMATED SALES TAX AMOUNT

BASE Bid	\$ _____ (\$ _____.__)
Alternate No. 1 (.....) <small>Insert keyword for alternate</small>	(add)(deduct) \$ _____ (\$ _____.__)
Alternate No. 2 (.....)	(add)(deduct) \$ _____ (\$ _____.__)
Alternate No. 3 (.....)	(add)(deduct) \$ _____ (\$ _____.__)
Alternate No. 4 (.....)	(add)(deduct) \$ _____ (\$ _____.__)
Alternate No. 5 (.....)	(add)(deduct) \$ _____ (\$ _____.__)
Alternate No. 6 (.....)	(add)(deduct) \$ _____ (\$ _____.__)

Failure to provide an accounting of Sales Tax shall render the bid non-responsive. Other than determining responsiveness, sales tax accounting shall not affect the bid pricing nor be considered in the determination of the lowest responsible and responsive bidder.

Legal Name of Bidder _____

Mailing Address _____

***By (Legal Signature)** _____

***Name (type or Print)** _____ (Seal)

***Title** _____

***Telephone** _____

END OF BID RESPONSE FORM

ITEM IV
BID BOND

The PRINCIPAL (Bidder's name and address)

The OWNER
City of Fairhope
P.O. Drawer 429
Fairhope, Al 36533

The PROJECT for which the Principal's Bid is submitted: (Project name as it appears in the Bid Documents)

PROJECT NO. PW003-14
PROJECT NAME: 451 Pecan Ave. Building HVAC Renovation

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned Principal and Surety, jointly and severally, hereby bind ourselves, our heirs, executors, administrators, successors, and assigns to the Owner in the PENAL SUM of five percent (5%) of the amount of the Principal's bid, but in no event more than TEN THOUSAND DOLLARS (\$10,000.00).

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

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

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

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

SIGNED AND SEALED this ____ day of _____, 2014.

ATTEST

(Principal (Company))

By _____

Print Name and Title

SURETY
ATTEST

Surety Company

By _____

Print Name and Title

ITEM V
PERFORMANCE BOND

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

hereinafter called the Principal, and _____
(Insert here the name and address of legal title of one or more sureties)

and _____

hereinafter called the Surety or Sureties, are held and firmly bound unto The City of Fairhope.

hereinafter called the Owner in the sum of _____ Dollars

(\$_____) for the payment whereof the Principal and the Surety or Sureties bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly, by these presents.

WHEREAS, the Principal has, by means of a written agreement, dated ___/___/___ entered into a contract with the Owner for: **Bid No. 006-14, 451 Pecan Ave. Building HVAC Renovation**, which agreement is by reference made a part hereof,

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

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

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

Witness our hands and seals this _____ day of _____, 2014.

INDIVIDUAL

_____, Doing Business As, _____
(Signature of Individual Bidder) (Business Name)

Business Mailing Address: _____

_____ email _____

CORPORATION

Name of Corporation, Partnership, or Joint Venture

Business Mailing Address: _____

_____ email _____

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

(Position or Title)

(General Contractor's License Number)

Foreign Corporation Entity Id (Required of out-of-state-vendors)

Attest:

(Secretary)

(Name of State under the laws of which incorporated)

(Name of Surety)

BY: _____
(Attorney in Fact)

ITEM VI
LABOR AND MATERIALS BOND

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

WHEREAS, said principal has entered into a certain Contract with said Obligee, dated ___/___/ 2014. (Hereinafter called the Contract) for **Bid No. 006-14, 451 Pecan Ave. Building HVAC Renovation**, which Contract and the Specifications for said work shall be deemed a part hereof as fully as if set out herein.

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

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

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

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

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

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

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

Witness our hands and seals this _____ day of _____, 2014.

INDIVIDUAL

_____, Doing Business As, _____
(Signature of Individual Bidder) (Business Name)

Business Mailing Address: _____

Attest:

(Secretary)

(Name of State under the laws of which incorporated)

(Name of Surety)

BY: _____
(Attorney in Fact)

ITEM VII
INSURANCE

7.0 INSURANCE REQUIREMENTS

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

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

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

7.03 Worker's Compensation and Employer's Liability

Part One: Statutory Benefits as required by the State of Alabama

Part Two: Employer's Liability	\$100,000	each accident
	\$100,000	each employee
	\$500,000	Policy Limit

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

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

7.05 Maritime Endorsement (Jones Act)

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

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

7.06 Commercial General Liability

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

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

Coverage to include:

- Premises and operations
- Personal injury and Advertising Injury
- Products/completed operations
- Independent Contractors
- Blanket Contractual Liability
- Explosion, Collapse and Underground hazards
- Broad Form Property Damage
- Railroad Protective Liability Insurance if work involves construction, demolition, or maintenance operations on or within 50 feet of a railroad.

7.07 Automobile Liability

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

7.08 Certificates of Insurance

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

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

ITEM VIII
SCOPE OF WORK AND SPECIFICATIONS
For
Project No. PW009-13
451 Pecan Ave. Building HVAC Renovation

The awarded Vendor to provide all necessary supervision, labor, tools, materials and safety equipment to perform the following tasks:

8.0 SCOPE OF WORK & SPECIFICATIONS

8.01 SCOPE OF WORK

8.01.1 DEFINITIONS

8.01.1.1 CITY

The City of Fairhope, Alabama City Council, Mayor, and the officers, agents and employees of the City of Fairhope, Alabama

8.01.1.2 CONTRACTOR

The Contractor is the person or persons, firm, partnership, joint venture, association, corporation, cooperative, limited liability company, or other legal entity, identified as such in the Construction Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

8.01.1.3 SPECIFICATIONS

The Specifications are that portion of the Contract Documents which set forth in writing the standards of quality and performance of products, equipment, materials, systems, and services and workmanship required for acceptable performance of the Work.

8.01.1.4 SUBCONTRACTOR

A Subcontractor is a person or entity who is undertaking the performance of any part of the Work by virtue of a contract with the Contractor. The term "Subcontractor" means a Subcontractor or its authorized representatives.

8.01.1.5 The WORK: The Work is the construction and services required by the Contract Documents and includes all labor, materials, supplies, equipment, and other items and services as are necessary to produce the required construction and to fulfill the Contractor's obligations under the Contract. The Work may constitute the entire Project or only a portion of it.

8.02. GENERAL DESCRIPTION

8.02.1 Project Location: 451 Pecan Avenue, Fairhope, Alabama. The general scope of work is to have a CONTRACTOR execute a turnkey project, replacing existing HVAC components, and installing new HVAC components, as determined by the CITY.

8.02.2 Quantity: All quantities are approximations. The CONTRACTOR will be paid for actual quantities installed and approved by the CITY. All residuals of bulk quantities charged to the CITY, but not consumed by this project, will remain the property of the CITY, and the CONTRACTOR will deliver those residuals to the CITY, no later than, at the time of substantial completion of the project.

8.02.3 Demolition: Furnish all equipment, labor and materials to remove defective components of the existing, CITY owned HVAC system located primarily in, but not limited to, the office areas of the building. This includes defunct HVAC units, and all other defective appurtenances associated with the existing office HVAC system. The exact HVAC components to be removed will be identified and marked by the CITY before, or during the pre-bid meeting. All defective components shall be removed, and properly disposed of by the CONTRACTOR, in accordance with any and all laws or regulations governing such disposal.

- 8.02.4 Installation: Furnish all equipment, labor and materials to turnkey, install new HVAC components, including but not limited to, prep work, new units, ducting, registers, braces and support members, and any other required materials or accessories necessary for project completion. All installation will be performed to manufacturer's specifications and instructions.
- 8.03 **QUALITY ASSURANCE**
The CONTRACTOR will use an adequate number of skilled employees, who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance as described above in the GENERAL DESCRIPTION of work. The CONTRACTOR SHALL provide an on-site Supervisor who will remain on site at all times while his employees, or those of a SUBCONTRACTOR, are performing work related to this Contract. The City of Fairhope Project Manager shall be furnished the name and 24 hour contact phone number for this Supervisor. All work shall be done in compliance with Federal, State and Local laws, regulations or ordinances, current industry standards, and to any and all equipment manufacturers recommended guidelines.
- 8.04 **SOURCE OF MATERIALS**
Provide materials obtained from one source for each type of unit, ducting, registers, etc... Colors, textures and patterns will be determined by the CITY.
- 8.04.1 **SUPPLIER QUALIFICATIONS**
Manufacturer shall be an established firm experienced in the field.
- 8.04.2 **INSTALLER QUALIFICATIONS**
HVAC CONTRACTOR shall be trained, experienced, and licensed in the HVAC field, using installers familiar with and experienced in the types of installation required. HVAC CONTRACTOR shall have completed three (3) projects of similar magnitude with similar product.
- 8.05 **SUBMITTALS**
Product Data: Submit manufacturer's technical information and installation instructions for materials required, except bulk materials. CONTRACTOR to submit three (3) copies of Manufacturer's product cut sheets (including MSDS) for all products. Where applicable, submit Manufacturers color charts showing full range of colors, textures and patterns available for each type of equipment indicated, including accessories.
- 8.06 **SAFETY AND PROTECTION OF PERSONS AND PROPERTY**
The CONTRACTOR is ultimately responsible for the safety of his/her employees, those of any SUBCONTRACTOR engaged by the CONTRACTOR and for any and all CONTRACTOR owned or leased equipment used for the performance of this contract
- 8.06.1 The CONTRACTOR shall be solely and completely responsible for conditions at the Project site, including safety of all persons (including employees) and property. The CONTRACTOR shall create, maintain, and supervise conditions and programs to facilitate and promote safe execution of the Work, and shall supervise the Work with the attention and skill required to assure its safe performance. Safety provisions shall conform to OSHA requirements and all other federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed.
- 8.06.2 The CONTRACTOR shall employ Construction Methods, safety precautions, and protective measures that will reasonably prevent damage, injury or loss to: Workers and other persons on the Project site and in adjacent and other areas that may be affected by the CONTRACTOR'S operations; the Work and materials and equipment to be incorporated into the Work and stored by the CONTRACTOR on or off the Project site and other property on, or adjacent to, the Project site, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and other improvements not designated in the Contract Documents to be removed, relocated, or replaced.
- 8.06.3 The CONTRACTOR shall be responsible for the prompt remedy of damage and loss to property, the filing of appropriate insurance claims, caused in whole or in part by the fault or negligence of the CONTRACTOR, a SUBCONTRACTOR, or anyone for whose acts they may be liable.

- 8.06.4 The CONTRACTOR shall comply with and give notices required by applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety and protection of persons or property, including without limitation notices to adjoining property owners of excavation or other construction activities that potentially could cause damage or injury to adjoining property or persons thereon.
- 8.06.5 The CONTRACTOR shall erect and maintain barriers, danger signs, and any other reasonable safeguards and warnings against hazards as may be required for safety and protection during performance of the Contract and shall notify owners and users of adjacent sites and utilities of conditions that may exist or arise which may jeopardize their safety.
- 8.06.6 If use or storage of explosives or other hazardous materials or equipment or unusual Construction Methods are necessary for execution of the Work, the CONTRACTOR shall exercise commensurate care and employ supervisors and workers properly qualified to perform such activity. Note: No explosive devices have been authorized for this project.
- 8.06.7 The CONTRACTOR shall furnish a qualified safety representative at the Project site whose duties shall include the prevention of accidents. The safety representative shall be the CONTRACTOR'S Supervisor, unless the CONTRACTOR assigns this duty to another responsible member of its on-site staff and notifies the CITY in writing of such assignment.
- 8.06.8 The CONTRACTOR shall not permit a load to be applied, or forces introduced, to any part of the construction or site that may cause damage to the construction or site or endanger safety of the construction, site, or persons on or near the site.
- 8.07 **HAZARDOUS MATERIALS**
A Hazardous Material is any substance or material identified as hazardous under any federal, state, or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing its handling, disposal, and/or clean-up. Existing Hazardous Materials are Hazardous Materials discovered at the Project site and not introduced to the Project site by the CONTRACTOR, a SUBCONTRACTOR, or anyone for whose acts they may be liable.
- 8.07.1 If, during the performance of the Work, the CONTRACTOR encounters a suspected Existing Hazardous Material, the CONTRACTOR shall immediately stop work in the affected area, take measures appropriate to the condition to keep people away from the suspected Existing Hazardous Material, and immediately notify the CITY of the condition in writing.
- 8.07.2 The CITY shall obtain the services of an independent laboratory or professional consultant, appropriately licensed and qualified, to determine whether the suspected material is a Hazardous Material requiring abatement and, if so, to certify after its abatement that it has been rendered harmless. Any abatement of Existing Hazardous Materials will be the responsibility of the CITY. The CITY will advise the CONTRACTOR in writing of the persons or entities who will determine the nature of the suspected material and those who will, if necessary, perform the abatement.
- 8.07.3 After certification by the CITY'S independent laboratory or professional consultant that the material is harmless or has been rendered harmless, work in the affected area shall resume upon written agreement between the CITY and CONTRACTOR. If the material is found to be an Existing Hazardous Material and the CONTRACTOR incurs additional cost or delay due to the presence and abatement of the material, the Contract Sum and/or Contract Time shall be appropriately adjusted by a Contract Change Order.
- 8.07.4 The CITY shall not be responsible for Hazardous Materials introduced to the Project site by the CONTRACTOR, a SUBCONTRACTOR, or anyone for whose acts they may be liable unless such Hazardous Materials were required by the Contract Documents.
- 8.08 **DELIVERY AND STORAGE**

8.08.1 Delivery of Materials
CONTRACTOR shall deliver materials in a neat, safe manner, least intrusive, and interruptive of City Business, in a manner, and to a location approved by the CITY. Deliver and store packaged materials in original containers with seals unbroken and labels intact until time of use. Prevent damage or contamination to materials by water, freezing, foreign matter or other causes.

8.08.2 Storage of Materials
CONTRACTOR is to store all materials in a neat safe manner, least intrusive, and interruptive of City business, in a manner and location approved by the CITY. Area where materials are to be stored should be maintained in compliance with Manufacturer's recommendations.

8.08.3 SCHEDULE OF INSTALLATION
Provide a sequenced, timeline schedule for performing the work. All work shall be completed during hours, and in a manner, least intrusive and interruptive of City business, and approved by the CITY.

8.09 **WARRANTY**
The awarded vendor expressly warrants that all articles, materials, and work offered shall conform to each and every specification, drawing, sample, or other description which is furnished to or adopted by the City of Fairhope, and that it will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defects. The awarded vendor further warrants all items for a period of one year, unless otherwise stated, from the date of acceptance of the items delivered and installed or work completed. All repairs, replacements, or adjustments during the warranty period will be at the awarded vendor's sole expense. Awarded vendor will provide written warranty for all labor for a period of (1) one year and all parts for a period of (5) five years commencing from date of final inspection and approval by City of Fairhope Building Department. Awarded vendor will provide written copies of all other applicable warranties, such as, Manufacturer's warranty. Those warranties, if any, will be in addition to the awarded vendor's warranty, and the terms of which will not be altered by the awarded vendor's warranty.

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

8.02 **SPECIFICATIONS**

8.02.1 **DESCRIPTION OF MATERIALS**
The HVAC equipment shall be complete with all of the necessary accessories as shown and described herein. Accessories not specifically mentioned, but necessary to furnish a complete unit ready for use shall also be included. All equipment shall be new and of current production of national firms that manufacture HVAC equipment and the specified accessories. The awarded bidder shall supply the HVAC equipment as complete and coordinated units.

8.02.1.1 **HVAC Units:**
Quantity – 3 each
Manufacturer – York (or equivalent)
Model No. -- YC090 (or equivalent),
Size -- 7-1/2 ton, cooling only
Voltage -- 460 volt,
Phases -- 3
Refrigerant -- R-410A
SEER -- 11.2.

Quantity – 1 each
Manufacturer – York (or equivalent)
Model No. -- YCJD60 (or equivalent),
Size -- 5 ton, cooling only
Voltage -- 460 volt,
Phases 3
Refrigerant R-410A
SEER 13

8.02.1.2 **Horizontal Air Handler Units:**

Quantity -- 3 each
Manufacturer – York (or equivalent)
Model No. -- NC090 (or equivalent),
Voltage -- 460 volt,
Phases 3
Refrigerant R-410A

Quantity -- 1 each
Manufacturer – York (or equivalent)
Model No. -- MA20 (or equivalent),
Voltage -- 460 volt,
Phases 3
Refrigerant R-410A

8.02.1.3 **Heat Strips:**

Quantity – 3 each
Manufacturer – York (or equivalent)
Model No. 2HJ04602646 (or equivalent)
Capacity: 26KW
Voltage -- 460 volt,
Phases 3

Quantity – 1 each
Manufacturer – York (or equivalent)
Model No. 4HK06501546 (or equivalent)
Capacity 15KW
Voltage -- 460 volt,
Phases 3

8.02.1.4 **Programmable Thermostat**

Quantity -- 4 each
Manufacturer Honeywell (or equivalent)
Model No. VP-8000 (or equivalent)

8.02.1.5 **Grilles**

Quantity -- 50 each
Manufacturer Hart / Cooley (or equivalent)
Model No. ARENPSW- R-8 (or equivalent)

8.02.1.6 **Miscellaneous Equipment**

R-8 Flex Duct to outlets, 50 each, assorted sizes to fit
Taps at trunk with dampers, 50 each, assorted sizes to fit
Copper piping, unit to unit, assorted lengths to fit
R-4 Insulation on suction lines, assorted lengths to fit
R-3 insulation on liquid lines, assorted lengths to fit
R-3 Insulation on drain pipes for 6 feet length each, assorted sizes to fit
Drain Pans / with safety switches, 4 each, assorted sizes to fit

8.03 **DESCRIPTION OF WORK**

All work required for demolition and new installation shall be the responsibility of the CONTRACTOR. CONTRACTOR will remove and lawfully dispose of all waste materials used or accumulated during demolition. Where new material is deemed necessary, material, texture, color and size to be specified by CITY, prior to installation or ordering of materials.

8.03.1 **CLEANING AND PROTECTION**

Cleaning: Upon completion of work, CONTRACTOR to clean all surfaces so they are free from foreign matter.

8.03.2 **COMPLIANCE**

CONTRACTOR will perform all work in compliance with all Federal, State, and local government requirements, meeting or exceeding Manufacturer's and industry standards.

8.04 **MISCELLANEOUS REQUIREMENTS**

8.04.1 All work to be done in a neat and professional manner.

8.04.2 All applicable licenses or permit fees to be acquired and paid by CONTRACTOR.

8.04.3 CONTRACTOR to provide all necessary services and materials unless stated otherwise above.

8.04.4 CONTRACTOR to comply with all laws, codes, and regulations, including safety, fire, health, environmental and insurance.

8.04.5 CONTRACTOR to cleanup job site and remove all waste and non-salvageable material in accordance with applicable laws, codes and regulations.

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

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

8.04.8 All salvageable material remains property of the City of Fairhope, and to be delivered by CONTRACTOR to the City of Fairhope Warehouse, 555 South Section Street, Fairhope, Al.

SPECIAL CONDITIONS

EXCEPTIONS TO SPECIFICATIONS

These specifications are based upon design and performance criteria which have been developed by the City of Fairhope as a result of extensive research and careful analysis of the data. Subsequently, these specifications reflect the only type of equipment, material(s) or supplies that is/are acceptable at this time. Therefore, exceptions may be accepted if they are minor, equal, or superior to that which is specified, and provided that they are listed and fully explained on a separate page entitled, "Exceptions to Specifications". The City shall determine which (if any) exceptions are acceptable and this determination shall be final.



**ITEM IX
CITY OF FAIRHOPE, ALABAMA
STANDARD TERMS AND CONDITIONS**

1. ACCEPTANCE OF AGREEMENT

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

2. ACCEPTANCE OF WORK

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

3. ADDENDA

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

4. ADDITIONAL ORDERS

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

5. APPLICABLE LAW

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

6. ASSIGNMENT

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

7. ASSURANCE OF NON-CONVICTION OF BRIBERY

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

8. AWARD CONSIDERATION

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

9. AWARD OR REJECTION OF BIDS

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

10. BACK ORDERS

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

11. BID AND PERFORMANCE SECURITY

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

12. BRAND NAMES

Reference to brand names and numbers is descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the standards of quality thereby indicated will be considered, providing the bid clearly describes the article offered and indicates how it differs from the referenced brands. Descriptive literature or manufacturers specifications plus any supplemental information necessary for comparison purposes should be submitted with the bid or the bid on that item may be rejected. Reference to literature submitted with a previous bid or on file with

the Division of Purchasing will not satisfy this requirement. The burden is on the bidder to demonstrate that the item bid is equivalent to the item specified in the ITB. Bids without sufficient documentation to fully support equality, may be considered non-responsive. Reference by the City of Fairhope in the ITB to available existing specifications shall be sufficient to make the terms of such specifications binding on the bidder. Unless the bidder specifies otherwise in its bid, it is understood the bidder is offering a referenced brand item as specified in the ITB or is bidding as specified when no brand is referenced. Failure to examine drawings, specifications and instructions will be at the bidder's risk.

13. BUSINESS LICENSE

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

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

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

15. CERTIFICATION PURSUANT TO ACT NO. 2006-557

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

Office of the Secretary of State

P.O. Box 5616
Montgomery, AL 36103
(334) 242-5324
Fax: (334) 240-3138

<http://www.sos.state.al.us/index.aspx>

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

16. COST OF REMEDIATING DEFECTS

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

charged against the awarded vendor.

17. DELIVERY OF BID

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

18. DELIVERY

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

19. ENVIRONMENTAL REQUIREMENTS

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

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

20. EQUIPMENT DEMONSTRATION

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

21. EQUIPMENT ELECTRICAL CERTIFICATION

All electrical equipment purchased shall conform to, and be identified in, the applicable standard(s), or otherwise be certified as applicable, as of the bid opening date and time, by Underwriters Laboratories, Inc. or other recognized laboratory facility. Bidder must provide satisfactory documentation with returned bid that all such equipment meets the applicable product standard or has otherwise been certified as outlined above. Unless indicated in the bid document, the above certification shall apply to the equipment itself, not the individual components of that equipment.

22. ERRORS IN BID

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

23. FORCE MAJEURE

Neither the City nor the awarded vendor shall be deemed in breach of any contract / Purchase Order or Agreement which may result

from this proposal submission if it is prevented from performing any of the obligations hereunder by reason of Acts of God, acts of the public enemy, acts of superior governmental authority, strikes or labor disputes, floods, riots, rebellion, sabotage, or any similar other unforeseeable causes beyond its control and not due to its fault or negligence. Each party shall notify the other immediately in writing of the cause of such after the beginning period thereof. The awarded vendor may request cancellation and the City of Fairhope may grant the request if performance is prevented by any of the above referenced causes, or other unavoidable circumstances not attributable to the fault or negligence of the vendor. The burden of proof for such relief rests with the vendor. All correspondence pertaining to cancellation of a purchase order or term contract must be addressed to the City of Fairhope Purchasing Manager.

24. HAZARDOUS AND TOXIC SUBSTANCES

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

25. INDEMNITY

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

26. INSPECTION

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

(14) calendar days, they may be disposed of at the discretion of the City of Fairhope. Disposal costs will be the awarded vendor's responsibility.

27. INSPECTION OF PREMISES

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

28. INSURANCE

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

29. INVITATION TO BID

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

30. INVOICING, DELIVERY, PACKAGING

Invoices shall be prepared only after ordered materials have been delivered. All invoices must show the purchase order number. Unless otherwise specified in writing, vendors shall not ship any material without an authorized Purchase Order from the City of Fairhope Purchasing Department. All packages delivered must show the purchase order number. The awarded vendor will be required to furnish all materials, equipment and/or service called for at the bid price quoted. In the event the awarded vendor fails to deliver within a reasonable period of time, as determined by the City of Fairhope, the right is reserved to cancel the award and subsequent purchase order and purchase from the next lowest responsible bidder the items needed. The original awarded vendor will be back charged the difference between the original contract price and the price the City of Fairhope has to pay as a result of the failure to perform by the original awarded vendor. All bids will remain firm for acceptance for 60 days from the date of bid opening. Prices shall be net F.O.B., Prepaid and Allow, City of Fairhope chosen site, Baldwin County, Al. The title and risk of loss of the goods will not pass to the City of Fairhope until receipt and acceptance takes place at the F.O.B. point.

31. LABELING

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

offer product packaging with recycled content.

32. LOSS OR DAMAGE IN TRANSIT

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

33. MANDATORY SITE VISIT

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

34 MONITORING OF SERVICES

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

35. NONCONFORMING MERCHANDISE

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

36. NON-DESCRIMINATION

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

37. NON EXCLUSIVE

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

38. NOTIFICATION AND ACCIDENT REPORTS

In the event of accidents of any kind, in the performance of a Contract / Agreement / Purchase Order, the awarded vendor shall notify the City of Fairhope immediately and furnish, without delay, copies of all such accident reports to the City of Fairhope. If in the performance of their Work, the awarded vendor fails to immediately

report an accident to the City of Fairhope, of which the awarded vendor has knowledge of and which results in a fine levied against the City of Fairhope then the awarded vendor shall be responsible for all fines levied against the City of Fairhope.

39. PACKAGING

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

40. PATENTS

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

41. PAYMENT

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

City of Fairhope
Accounts Payable Department
P.O. Box 429
Fairhope, Al. 36533

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

42. PAYMENT WITHHELD

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

43. PRODUCT TESTING

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

44. PERMITS LICENSES AND CERTIFICATES

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

45. PREPARATION OF BID

All bids / proposals shall be typewritten or in ink on the form(s) prepared by the City of Fairhope. Bids / proposals prepared in pencil will not be accepted. All bids / proposals must be signed by officials of the corporation or company duly authorized to sign bids /

proposals. Any bid / proposal submitted without being signed will automatically be rejected. All corrections or erasures shall be initialed and dated by the person authorized to sign quotations /bids / proposals. If there are discrepancies between unit prices quoted and extensions, the unit price will prevail.

46. QUESTIONS / CONTACT

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

47. RECEIPT BY CITY OF FAIRHOPE

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

48. REJECTION OF BIDS

The City of Fairhope reserves the right to accept or reject any or all bids in whole or in part for any reason, to waive technicalities or informalities, or to advertise for new proposals, if, in the judgment of the awarding authority, the best interest of the City of Fairhope will be promoted thereby. Bidders may be disqualified and rejection of proposals may be recommended for any of (but not limited to) the following causes: Failure to use the bid forms furnished by the City of Fairhope, Lack of signature by an authorized representative on the bid form, Failure to properly complete the bid form and vendor compliance, Evidence of collusion among bidders, Unauthorized alteration of the bid form.

50. RIGHT TO AUDIT

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

51. SAMPLES

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

52. SAFETY MEASURES

The awarded vendor shall take all necessary precautions for the safety of the City of Fairhope's and awarded vendor's employees at the Work site, and shall erect and properly maintain at all times, all

necessary safeguards for the protection of the workmen and the public. The awarded vendor shall post signs warning against hazards in and around the Work site.

53. SET-UP AND INSTALLATION

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

54. SPILL CLEAN UP

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

55. SUBSTITUTIONS

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

56. TABULATION

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

57. TAXES

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

58. TERMINATION FOR CONVENIENCE

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

59. TERMINATION FOR DEFAULT

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

60. TERMINATION FOR NON-APPROPRIATION

Termination for Non-appropriation – The continuation of any financial obligation beyond the current fiscal year is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the local source, State Legislature and/or federal sources. The City of Fairhope may terminate any

financial obligation, and awarded vendor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the City of Fairhope's funding from local, State and/or federal sources is not appropriated, withdrawn or limited.

61. TIME IS OF THE ESSENCE

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

62. TITLE

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

63. VENDOR LIST

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

64. WARRANTY

The awarded vendor expressly warrants that all articles, materials, and work offered shall conform to each and every specification, drawing, sample, or other description which is furnished to or adopted by the City of Fairhope, and that it will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defects. The awarded vendor further warrants all items for a period of one year, unless otherwise stated, from the date of acceptance of the items delivered and installed or work completed. All repairs, replacements, or adjustments during the warranty period will be at the awarded vendor's sole expense. Awarded vendor will provide written warranty for all parts and labor for a period of (1) one year commencing from date of written acceptance of delivery by City of Fairhope. Awarded vendor will provide written copies of all other applicable warranties, such as, Manufacturer's warranty. Those warranties, if any, will be in addition to the awarded vendor's warranty, and the terms of which will not be altered by the awarded vendor's warranty.

65. IMMIGRATION LAW

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

**ITEM X
CONTRACT**

This **CONTRACT** is made this ____ day of _____, 2014, by and between the **CITY OF FAIRHOPE** (hereinafter "**OWNER**") and _____ of _____ (hereinafter "**CONTRACTOR**"), on the

BID NO.	006-14	451 Pecan Ave. Bldg HVAC Renovations
PROJECT NO.	PW003-14	451 Pecan Ave. Bldg HVAC Renovations

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

1. The **CONTRACT** consists of all of the items contained within this contract, the quotation package, proposal, scope of work, specifications and if any drawings addenda, amendments, and "City of Fairhope Standard Terms and Conditions", which are attached hereto and made a part hereof, as if fully contained herein; for the performance of all work and the furnishing of all labor and materials required for completion of **Project No PW003-14 451 Pecan Ave. Bldg. HVAC Renovations**

2. The **CONTRACTOR** shall perform all the **WORK** described herein as awarded by the Fairhope City Council.

3. The **WORK** to be performed under this **CONTRACT** shall be commenced upon execution of the **CONTRACT** within **TEN (10)** days of the date specified in a *Notice to Proceed (NTP)* to be issued to the **CONTRACTOR** by the **OWNER**, or its authorized representative. The work shall be completed, subject to authorized adjustments, within ONE HUNDRED TWENTY (120) calendar days, from and after the commencement date stipulated in said *Notice to Proceed*. Liquidated damages for non-completion of the work within this time limit will be assessed at the rate of **\$200** per working day.

4. The **OWNER** shall pay the **CONTRACTOR** in current funds for the performance of the **WORK**, the **CONTRACT SUM** of _____ (\$xx.xx). The **CONTRACTOR** shall submit to the **OWNER**, on or before the 5th day of each month, an estimated total for the work performed in the previous month. The **OWNER** will hold as retainage 5% of each monthly estimate until 50% completion of the work. The quantities appearing in the bid schedule are approximate only and are prepared for the comparison of bids. Payment to the **CONTRACTOR** will be made only for the actual quantities or work performed and accepted, or materials furnished, in accordance with the contract. The scheduled quantities or work to be done and materials to be furnished may increase decrease, or be omitted as provided herein. The **CONTRACTOR** shall, immediately after the completion of the **CONTRACT**, give notice of the completion by an advertisement in a newspaper of general circulation published within the city or county in which the work has been done, for a period of four successive weeks. A final settlement shall not be made upon the **CONTRACT** until the expiration of 30 days after the completion of the notice. Proof of the publication of the notice shall be made by the **CONTRACTOR** to the **OWNER** by affidavit of the publisher and a printed copy of the notice published

5. The **CONTRACTOR** shall, before commencing the **WORK**, execute a **Performance Bond**, with penalty equal to One Hundred Percent (100%) of the amount of the **CONTRACT SUM**. The **CONTRACTOR** shall also, before commencing the **WORK**, execute a **Labor And Materials Bond**, payable to the **OWNER**, in an amount greater than Fifty Percent (50%) of the **CONTRACT SUM**, with the obligation that the **CONTRACTOR** promptly make all payments to all persons supplying labor, materials or supplies for, or in, prosecution of the **WORK** provided in the **CONTRACT** and for the payment of reasonable attorney's fees incurred by successful claimants. All bonds shall be executed by surety companies duly authorized and qualified to make such bonds in the State of Alabama in the amount required.

6. The **CONTRACTOR** shall not commence work under this **CONTRACT** until it has purchased **INSURANCE** for protection from any and all claims that may arise out of or result from the **CONTRACTOR'S** operations under the **CONTRACT**. The **CONTRACTOR'S** shall maintain the required insurance in the minimum amounts as described in **ITEM VII INSURANCE**.

7. The **CONTRACTOR** has thoroughly and completely inspected the premises, and hereby agrees to perform the **WORK** for the **CONTRACT SUM**.

8. The **CONTRACTOR** warrants to the **OWNER** that all materials furnished under this **CONTRACT** will be new, and that all work will be of a good quality, free from faults and defects and in conformance

with the **CONTRACT DOCUMENTS**. All **WORK** not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the **OWNER**, the **CONTRACTOR** shall furnish satisfactory evidence as to the kind and quality of materials.

9 The **CONTRACTOR** shall promptly correct all work rejected by the **OWNER** as defective or failing to conform to the **CONTRACT DOCUMENTS**. The **CONTRACTOR** shall bear all costs of correcting such rejected **WORK**, regardless of whether the **WORK** is fabricated, installed or completed.

10. The **CONTRACTOR** shall remove from the site all portions of the **WORK** which are defective or non-conforming and which have not been corrected, unless removal is waived by the **OWNER**.

11. If the **CONTRACTOR** fails to correct defective or nonconforming **WORK** within a reasonable time fixed by written notice from the **OWNER**, the **OWNER** may correct and the **CONTRACTOR** shall bear the cost of making good all work of the **OWNER** or separate contractors.

12. If the **OWNER** prefers to accept the defective work, the **OWNER** may do so instead of requiring its removal and correction, in which case a reduction in the **CONTRACT SUM** shall be effected whether or not final payment has been made. The reduction shall be equitable and appropriate.

13. If the **CONTRACTOR** fails to correct defective **WORK** as set forth above or persistently fails to carry out the **WORK** in accordance with the **CONTRACT DOCUMENTS**, or fails to supply enough properly trained workers or proper materials or disregards laws, ordinances, rules or regulations, the **OWNER**, by a written order signed by its authorized agent, may order the **CONTRACTOR** to stop the **WORK**. If the **CONTRACTOR** fails within the seven (7) days after receipt of written notice to commence corrective action, the **OWNER** may, after those seven (7) days, without prejudice to any other remedy of the **OWNER**, terminate employment of the **CONTRACTOR** and take possession of the site and all materials thereon, and may finish the work by whatever methods the **OWNER** finds expedient.

14. If, within one (1) year after acceptance of the **WORK** by the **OWNER**, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the **CONTRACT DOCUMENT**, any of the **WORK** is found to be defective or not in conformity with the **CONTRACT DOCUMENTS**, the **CONTRACTOR** shall correct it promptly after receipt of a written notice from the **OWNER** to do so unless the **OWNER** has previously given the **CONTRACTOR** a written acceptance of such condition. This obligation shall survive both final payment for the **WORK** and termination of the **CONTRACT**. The **OWNER** shall give such notice promptly after discovery of the condition.

15. All **TIME LIMITS** stated in the **CONTRACT DOCUMENTS** are of the essence of the contract.

16. If the **CONTRACTOR** is delayed at any time in the progress of the **WORK** by any act or neglect of the **OWNER**, any of its employees, labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the **CONTRACTOR'S** control, the **CONTRACT** time shall be extended to such reasonable time as the **OWNER** may determine.

17. The **CONTRACTOR** shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the **WORK**. The **CONTRACTOR** shall perform the **WORK** in a manner that allows the **OWNER**, to the maximum extent possible, to continue its daily operations on the premises.

18. The **CONTRACTOR** shall at all times keep the premises free from accumulation of waste materials or rubbish caused by the **CONTRACTOR'S** operations. At the completion of the **WORK**, the

CONTRACTOR shall remove all the **CONTRACTOR'S** waste materials and rubbish from and about the **PROJECT** as well as all the **CONTRACTOR'S** tools, construction equipment, machinery and surplus materials. If the **CONTRACTOR** fails to clean up at the completion of the **WORK**, the **OWNER** may do so and the cost thereof shall be charged to the **CONTRACTOR**.

19. WRITTEN NOTICE shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving the notice.

20. The duties and obligation imposed by the **CONTRACT DOCUMENTS** and the **RIGHTS AND REMEDIES** available thereunder shall be in addition to, and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

21. Should either party to the **CONTRACT** suffer injury or damage to person or property because of any act or omission of the other party's employees or agents, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

22. The **OWNER** and **CONTRACTOR**, respectively, bind themselves, their partners, successors, assigns, and legal representative to the other party hereto and to the partners, successors, assigns, and legal representatives to the other party with respect to all covenants, agreements, and obligations contained in the **CONTRACT DOCUMENTS**. Neither party to the **CONTRACT** shall assign the **CONTRACT** or sublet it as a whole without the written consent of the other.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

CITY OF FAIRHOPE, ALABAMA

ATTEST: _____
Lisa A. Hanks, City Clerk

BY: _____
Timothy M. Kant, Mayor

NOTARY FOR THE CITY

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned authority in and for said State and County, hereby certify that TIMOTHY M. KANT as Mayor of the city of Fairhope who name is signed to the foregoing document and who is known to me, acknowledged before me on this day, that being informed of the contents of the document he executed the same voluntarily on the day the same bears date.

Given under my hand and Notary Seal on this ____ day of _____, 2014

Notary Public _____

My Commission Expires ____/____/____

CONTRACTOR

Individual or Partnership

(Individual or Partnership) (PRINT name of Partner)

(SIGNATURE of representative authorized to sign Bids and Contracts for the company) (PRINT name of Partner)

(PRINT name of representative authorized to sign Bids and Contracts for the company)

Address _____

Phone no. _____ Fax no. _____

Primary email address _____

Alabama Contractor's License No _____ Foreign Corporation Entity ID _____
(if required) (If out of state)

Corporation

Company _____ State of Incorporation _____

Company Representative _____
(SIGNATURE of representative authorized to sign Bids and Contracts for the company)

Company Representative _____
(PRINT name of representative authorized to sign Bids and Contracts for the company)

Address _____

Phone No. () _____ Fax no. _____

Primary email address _____

Alabama Contractor's License No _____ Foreign Corporation Entity ID _____
(if required) (If out of state)

THIS MUST BE NOTARIZED

NOTARY FOR THE CONTRACTOR

STATE OF _____ }

COUNTY OF _____ }

I, the undersigned authority in and for said State and County, hereby certify that
_____ as _____ of
(contractor) title
_____, whose name as signed to the
(company name)

foregoing document and who are known to me, acknowledged before me on this day, that being informed of the contents of the document they executed the same voluntarily on the day the same bears date.

Given under my hand and Notary seal on this ____ day of _____, 2014.

Notary Public _____

My Commission Expires ____/____/____

ITEM XI
Alabama Immigration Act Contract Requirements

1.0 Background

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

2.0 Definitions

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

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

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

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

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

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

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

STATE-FUNDED ENTITY. Any governmental entity of the state or a political subdivision thereof or any other entity that receives any monies from the state or a political subdivision thereof; provided, however, an entity that merely provides a service or a product to any governmental entity of the state or a political subdivision thereof, and receives compensation for the same, shall not be considered a state-funded entity.

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

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

3.0 **Mandatory Clause**

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

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

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

4.0 **Contracts Involving Business Entity, or Employer**

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

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

5.0 **Contracts Involving Subcontracting**

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

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

INVITATION SUMMARY

Bid No. 006-14

Pecan Ave. Bldg HVAC Renovation

Issue Date:	3/27/2014
Bid Bond Requirements:	Five (5) % of bid price
Certificate of Insurance Requirements:	See Standard Terms and Conditions and Item VII
Non-Mandatory Pre-Bid Meeting:	04/03/14, Thursday 9:00 A.M. 555 S. Section Street, Fairhope, Al
Deadline for Questions Date:	04/10/2014
IFB Closing Date (bids opened):	04/15/2014, Tuesday, 2:00 P.M.
City Internet Site: (for bid postings)	www.cofairhope.com
Bid Copies: (to submit)	One (1)
Purchasing Department Contact:	Daniel P Ames, Purchasing Manager dan.ames@cofairhope.com (251) 928-8003

END OF INVITATION SUMMARY

CONTRACTOR INFORMATION

Please print this section and turn in with your response

Bid No 006-14 Pecan Ave. Bldg HVAC Renovation

Business Organization

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

Doing-Business-As Name of Bidder: _____

Principal Office Address: _____

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

Corporation _____

Partnership _____

Individual _____

Joint Venture _____

Other (describe): _____

Corporation Statement

If a corporation, answer the following:

Date of incorporation: _____

Location of incorporation: _____

The corporation is held: Publicly _____

Privately _____

Partnership Statement

If a partnership, answer the following:

Date of organization: _____

Location of organization: _____

The partnership is: General _____

Limited _____

Joint Venture Statement

If a Joint Venture, answer the following:

Date of organization: _____

Location of organization: _____

JV Agreement recorded? Yes _____

No _____

Primary Contact

Title: _____

Telephone Number: _____

Fax Number: _____

Email Address: _____

Website: _____