

**CONTRACT DOCUMENTS  
BID FORM AND SPECIFICATIONS**

**BID NO. 010-14**

**PHOSPHATE CHEMICAL SUPPLY AND CORROSION  
TESTING**

**FOR**

**WATER DEPARTMENT**

**FOR**

**CITY OF FAIRHOPE, AL**

**Timothy M. Kant, Mayor**

**Jack Burrell, Council President**

**TABLE OF CONTENTS**

Advertisement.....I

Invitation and Instruction to Bidders.. .....II

Bid Response Form.....III

Bid Bond.....IV

Performance Bond.....V Waived

Labor and Materials Bond.....VI Waived

Insurance.....VII

Scope of Work and Specifications .....VIII

Standard Terms and Conditions .....IX

Contract.....X

Alabama Immigration Act Contract Requirements.....XI

**Item I**  
**ADVERTISEMENT**

Sealed bids will be received by the City of Fairhope of Baldwin County, Alabama, in the City of Fairhope City Services and Utilities Building located at 555 South Section St. Fairhope, Alabama, until 2:00 p.m., Monday, February 24, 2014, and then publicly opened thereafter, for furnishing all labor and materials, and performing all work required by the City of Fairhope and described as follows:

**Bid Number 0010-14, Phosphate Chemical Supply and Corrosion Testing**

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

Questions or comments pertaining to this bid must be presented in writing, sent as e-mail to the attention of the Purchasing Manager, Daniel P. Ames, at: [dan.ames@cofairhope.com](mailto:dan.ames@cofairhope.com), Seventy Two (72) 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 or a cashier's check payable to The City of Fairhope. No Bid Security is required on bids less than \$10,000.00.

**THERE WILL BE NO PREBID MEETING.** 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 of Fairhope 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 a "**Sealed Bid**" with **Bid Name, Bid Number, City of Fairhope's Name and Address and Bidder's Name and Address**. Each bid must be in a separate envelope. Bids made out in pencil will not be accepted. PERFORMANCE BOND, AND LABOR AND MATERIALS BOND ARE WAIVED FOR THIS BID.

The Contractor must furnish to the City of Fairhope, at the time of the signing of the contract, a Certificate of Insurance coverage which will include Comprehensive Insurance, Contractor's Automobile Liability Insurance, and where applicable, OWNER's Protective Liability Insurance, Sub-contractor's Public Liability and Property Damage Insurance. The right is reserved to reject any and/or all proposals and any portion thereof, and to waive informalities and to furnish any item of material or work to change the amount of the Contract. Failure to observe the instructions contained herein will constitute grounds for rejection of your proposal.

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 State Licensing Board for General Contractors, Montgomery, Alabama, as required by Chapter 8 of Title 34, of the Code of Alabama, 1975. In addition, the awarded vendor, if non-resident of the State, and if a corporation, shall show evidence of having qualified with the Secretary of State to do business in the State of Alabama, <http://www.sos.alabama.gov/BusinessServices/ForeignCorps.aspx> Bidder must have a current business license or purchase a business license with the City of Fairhope prior to work performed. No proposals shall be withdrawn for the period of THIRTY (30) days subsequent to the opening of proposals without the consent of the City of Fairhope of Fairhope, Alabama, Baldwin County, Alabama.

Daniel P. Ames  
Purchasing Manager  
Posted 02-3-14

**ITEM II**  
**INVITATION AND INSTRUCTIONS TO BIDDERS**

- 2.00            **BID INVITATION**  
Notice is hereby given that the City of Fairhope ("OWNER") will receive bids on the project described herein. Qualified bidders are invited to bid on this contract.
- 2.01            **BID NO.:            010-14**  
**BID NAME:        Phosphate Chemical Supply and Corrosion Testing**  
**FOR:                Water/Sewer Department**
- 2.02            **SUMMARY:**  
See attached Scope of Work.
- 2.03            **BID DEADLINE**  
Bids will be received until **2:00 p.m. local time, Monday, February 24, 2014**, by the City of Fairhope of Baldwin County, Alabama, in the, 555 South Section St., Fairhope, Alabama, and publicly opened thereafter.
- 2.04            **AVAILABILITY OF DOCUMENTS**  
Bid Documents may be obtained at the Fairhope City Services and Utilities Building located at 555 S. Section St., Fairhope, Alabama. One set of Bid Documents can be obtained free of charge.
- 2.05            **INQUIRIES**  
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, 555 South Section St., Fairhope, Al 36532, e-mail: [dan.ames@cofairhope.com](mailto:dan.ames@cofairhope.com), no less than Seventy-Two (72) hours prior to the bid opening.
- 2.06            **SITE EXAMINATION / CITY PROVISION / NON-RESIDENT STATE RECIPROCITY**  
**NO PREBID MEETING**
- 2.06.1            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 commencing work. Where required by State Law, State Contractor's license is required.
- 2.06.2            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
- 2.07            **BID SECURITY**  
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 or a cashier's check payable to the City of Fairhope. No Bid Security is required on bids less than \$10,000.00.
- 2.08            **PERFORMANCE ASSURANCE AND INSURANCE**  
The bidder to whom award is made shall provide a Performance Bond equal to 100% of the Contract Amount and a Labor and Material Bond equal to 50% of the contract amount. **THE PERFORMANCE BOND, AND LABOR AND MATERIALS BONDS ARE WAIVED FOR THIS BID.** The accepted Bidder shall provide insurance as required in ITEM VII.
- 2.09            **DURATION OF OFFER**  
Bids may be withdrawn in written (mailed or faxed) requests received from bidder prior to the

time fixed for opening. No bid shall be withdrawn for a period of thirty (30) days subsequent to the opening of bids without the consent of the Fairhope City Council.

2.10 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 of Fairhope also encourages and supports the utilization of Minority Business Enterprises on this and all public bids.

2.11 BID SUBMISSION AND PREPARATION

Sealed Bids, signed, executed, and dated, will be received by the City of Fairhope as noted in Item I above. Submit one fully executed, signed copy of the offer on the Bid Response Form provided. The bid shall be enclosed in a sealed opaque envelope approximately 9x12 inches or larger, clearly noted on the outside of the envelope as a **SEALED BID** with **BID NAME, BID NUMBER, CITY OF FAIRHOPE AND ADDRESS, BIDDER'S NAME AND ADDRESS, AND IF REQUIRED, BIDDER'S CONTRACTOR'S LICENSE NUMBER**. When sent by mail, or courier service, the sealed envelope containing the bid, marked as indicated above, shall be enclosed in another envelope for mailing.

2.11.1 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 suitably filled in. Fill in all blanks on the bid form with non-erasable ink or type. Erasers or other changes must be explained or noted over the signature of the bidder.

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

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

2.11.4 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

2.12 BID INELIGIBILITY

Bids that contain irregularities of any kind may be declared unacceptable at the discretion of the City of Fairhope. The City of Fairhope reserves the right to waive any irregularities and may reject any or all bids. Bids received after the deadline will be returned to the bidder unopened.

2.13 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.

- 2.14            **INQUIRIES/ADDENDA**  
Questions or comments pertaining to this bid must be presented in writing, or sent via email to the attention of the Purchasing Manager, Dan Ames at [dan.ames@cofairhope.com](mailto:dan.ames@cofairhope.com) no later than seventy two (72) hours prior to the bid opening or will be forever waived.
- Address:            City of Fairhope, Purchasing Dept.  
                         555 S. Section St.  
                         Fairhope, Al 36532  
                         Phone number: 251-928-8003
- All Addenda are part of the Contract Documents.** Include resultant costs in the bid. Addenda will be posted on the City's website: [www.cofairhope.com](http://www.cofairhope.com). It is the responsibility of the bidder to verify that all addenda have been received.
- 2.15            **BID ACCEPTANCE**  
Bid with lowest Total Bid amount from a responsive and responsible bidder may be accepted if within the Contract Budget. In the event that alternates are listed on the Bid Form, the lowest combination of Total Bid and Alternate Bids accepted by the City of Fairhope shall be the accepted bid. Alternates shall be awarded in the order in which they are listed on the Bid Response Form.
- 2.16            **BIDDERS INTERESTED IN MORE THAN ONE BID**  
If more than one bid is offered by any one party, by or in a name of his clerk, partner, corporation in which he has a substantial interest, or in which he is an officer, or other person, all such bids may be rejected. A party who has quoted prices on materials to a bidder is not thereby disqualified from quoting prices to other bidders or from submitting a bid directly for the materials or work. The City of Fairhope reserves the right to determine in its discretion whether the provisions of this clause have been violated by any bidder.
- 2.17            **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 for 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.
- 2.18            **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 fifteen (15) days after the required forms are presented to him for signature.
- 2.20            **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 of Fairhope.
- 2.21            **SUBLETTING OR ASSIGNING OF CONTRACT**  
Limitations: The Contractor shall not sublet, assign, transfer, convey, sell, or otherwise dispose of any portion of the contract, his right, title or interest therein, or his power to execute such contract, to any person, firm or corporation without written consent of the City of Fairhope, and such written consent shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract.
- 2.22            **PROSECUTION OF WORK**  
The Contractor shall commence work within 10 days of issuance of the Notice to Proceed (NTP) by the City of Fairhope or as otherwise directed in writing.
- 2.22.1            The Contractor shall prosecute the work continuously and diligently in the order and manner set out in his schedule as approved by the City of Fairhope. 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.

- 2.22.2 Should the Contractor fail to maintain a satisfactory rate of progress, the City of Fairhope 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.
- 2.22.3 Should the Contractor fail to furnish sufficient satisfactory equipment and/or labor for maintaining the quality and progress of the work at satisfactory level, the City of Fairhope may withhold all estimates that may become due until satisfactory quality and progress are maintained; or the contract may be annulled.

### **EXCEPTIONS / CHANGES**

Compliance with or variations from the specifications must be noted as to each item on the Specification Sheet. This requirement must be met even though the Purchasing Manager may alter the specifications in the form of an addendum to accommodate variances. A request for a change in the specifications to accommodate a variation must be called to the attention of the Purchasing Manager at least 72 hours before the bid opening date. All requests for such changes will be considered and the merits weighed. Only those changes in specifications deemed to be in the best interest of the City will be made. In the event of a change in specifications, an addendum will be supplied to bidders. Exceptions may be accepted if they are minor, equal, or superior to that which is specified, and provided that they are listed and fully explained on a separate page entitled, "Exceptions to Specifications". The exceptions shall refer to the specification page and paragraph number. The City shall determine which (if any) exceptions are acceptable and this determination shall be final.

**ITEM III  
BID RESPONSE FORM**

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Bid Number: 009-14**  
**Bid Name: Lift Station Odor Control**

**Award Duration:** ONE (1) year from signing date of contract, with the option to renew bid or contract for TWO (2) additional ONE (1) year periods, if terms and conditions, including pricing remain the same, and both parties are in agreement to renewing the contract.

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

<b>PHOSPHATE</b>	<b>BID PRICE: \$</b> _____ <b>per 1000 gallons of water treated</b>
<b>TKPP</b>	<b>BID PRICE: \$</b> _____ <b>per gallon</b>

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

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

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

**The undersigned agrees to furnish the goods/services as requested by you for the City of Fairhope, Baldwin County, Alabama in your invitation to bid, and certifies that they will meet or exceed the specifications called for. The undersigned has read all information pertaining to this bid and has resolved all questions. It is also understood and agreed that all prices quoted are F.O.B. described in the bid documents and specifications. The undersigned also affirms he/she has not been in any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price or to refrain from bidding or otherwise.**

**If Individual**

\_\_\_\_\_  
(Name of Individual or Partnership)

\_\_\_\_\_  
(Print Name of Representative Authorized to sign  
Bids and Contracts for the firm)

\_\_\_\_\_  
(Signature of Representative Authorized to sign  
Bids and Contracts for the firm)



\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

Phone Number ( ) \_\_\_\_\_ Fax Number ( ) \_\_\_\_\_

Primary E-mail address \_\_\_\_\_

Alabama Contractor's License No. \_\_\_\_\_ Foreign Corporation Entity ID \_\_\_\_\_

**If Corporation or LLC**

Company \_\_\_\_\_ State of Incorporation \_\_\_\_\_

Company Representative \_\_\_\_\_  
(Print Name of Representative Authorized to sign Bids and Contracts for the firm)

Company Representative \_\_\_\_\_  
(Signature of Representative Authorized to sign Bids and Contracts for the firm)

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number ( ) \_\_\_\_\_ Fax Number( ) \_\_\_\_\_

Primary e-mail address \_\_\_\_\_

Alabama Contractor's License No. \_\_\_\_\_ Foreign Corporation Entity ID \_\_\_\_\_

**THIS MUST BE NOTARIZED!**

**Notary for Individual or Corporation**

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ }

I, the undersigned authority in and for said State and County, hereby certify that \_\_\_\_\_  
\_\_\_\_\_ as \_\_\_\_\_ respectively, of \_\_\_\_\_, whose  
name is signed to the foregoing document and who is known to me, acknowledged before me on this day, that,  
being informed of the contents of the document they executed the same voluntarily on the day the same bears  
date.

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

\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: \_\_\_\_\_

**ITEM IV  
BID BOND**

The PRINCIPAL (Bidder's name and address)

The OWNER (Name and Principal place of Business)

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

The bid name for which the Principal's Bid is submitted:

Bid No. 010-14 Phosphate Chemical Supply and Corrosion Testing

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

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

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

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

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

SIGNED AND SEALED this \_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST**

\_\_\_\_\_

\_\_\_\_\_  
**Principal (Company)**

By \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

**SURETY  
ATTEST**

\_\_\_\_\_

\_\_\_\_\_  
**Surety Company**

By \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

**BIDS WILL NOT BE CONSIDERED UNLESS BID BOND IS SIGNED BY PRINCIPAL AND SURETY**

**ITEM V  
PERFORMANCE BOND**

KNOW ALL MEN: That we \_\_\_\_\_

(Name & address of legal title of the Contractor)

\_\_\_\_\_ hereinafter called the Principal, and

\_\_\_\_\_ (name and address of legal title of one or more Sureties)

\_\_\_\_\_ 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.

WAIVED

WHEREAS, the Principal has, by means of a written agreement, dated \_\_\_/\_\_\_/ 2014 entered into a contract with the OWNER for:

**BID NO. 010-14 PHOSPHATE CHEMICAL SUPPLY AND CORROSIVE TESTING**

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 there under 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.

Signed and Sealed this \_\_\_ day of \_\_\_\_\_, 2014.

**Individual**

Business Name \_\_\_\_\_

(Individual principal's signature) \_\_\_\_\_ (SEAL)

(Individual principal's printed name) \_\_\_\_\_ (SEAL)

**In the presence of:**

(Witness) \_\_\_\_\_

(Witness) \_\_\_\_\_

**Corporate**

(Attest) \_\_\_\_\_

(Corporation Name) \_\_\_\_\_

(Corporate principal's signature) \_\_\_\_\_

(Corporate principal's printed name) \_\_\_\_\_

Surety signature \_\_\_\_\_

Witness to Surety \_\_\_\_\_

**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 Number 010-14 PHOSPHATE CHEMICAL SUPPLY AND CORROSION TESTING** 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 attorneys' 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 City of Fairhope or their successors or representatives 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".

General Contractor's License Number: \_\_\_\_\_ Foreign Corp Entity ID \_\_\_\_\_  
(Required of out-of-state-vendors):

Signed and Sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**Individual Principals**

Business Name \_\_\_\_\_

Individual principal's signature \_\_\_\_\_

Individual principal's printed name \_\_\_\_\_

**In the presence of:**

Witness \_\_\_\_\_

Witness \_\_\_\_\_

**Corporate principal** (Attest) \_\_\_\_\_

Corporation Name \_\_\_\_\_

Corporate principal's **signature** \_\_\_\_\_

Corporate principal's **printed name** \_\_\_\_\_

Surety Signature \_\_\_\_\_

Witness to Surety \_\_\_\_\_

**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 Employers Liability

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

Part Two: Employers 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 Members 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 form 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

- o Premises and operations
- o Personal Injury and Advertising Injury
- o Products/Completed Operations
- o Independent Contractors
- o Blanket Contractual Liability
- o Explosion, Collapse and Underground hazards
- o Broad Form Property Damage
- o 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 subcontractors. Subcontractors 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 & SPECIFICATIONS**

**BID NO 010-14**  
**PHOSPHATE CHEMICAL SUPPLY AND CORROSION TESTING**

**SCOPE OF WORK**

**1.0            GENERAL SCOPE**

1.0.1            It is the intent of the City of Fairhope to accept bids for and award a contract for the supplying of certain chemicals and related services for our potable water system.

**2.0            LOCATIONS**

Courthouse to well #1	0.3 miles
From well #1 to well #2	1.7 miles
From well #2 to well #3	3.9 miles
From well #3 to well #5	5.6 miles
From well #5 to well #4	1.8 miles
From well #4 to well #6	2.3 miles

**3.0            CONTRACTOR QUALIFICATIONS**

3.0.1            Supplier must be a contractor, or have a dedicated division, in the business of supplying water treatment products (chemicals and equipment) and services for the control of corrosion, deposition and biological control in water utility systems. The Contractor will have technical support for its field staff.

3.0.2            The Contractor must have been in business a minimum of 10 years; or, if less than ten years, the primary and secondary representatives (as identified in Section 4.0) must have a minimum of 10 years experience each plus a four-year Degree.

3.0.3            Documentation of these requirements will be required prior to final award of a contract.

**4.0            REPRESENTATIVE QUALIFICATIONS**

4.0.1            The Contractor will designate a primary representatives and a support technician and will provide telephone, voicemail and email contact information for each.

4.0.2            Each of these contacts must be a certified water technician, and have a minimum of ten years field experience in water treatment. The Contractor will provide documentation of this certification and experience.

4.0.3            The Contractor's primary representative will reside within two hours of, Fairhope, Alabama and be able to respond on-site within two hours notification. The support technician is exempt from these requirements.

4.0.4            Documentation of these requirements will be required prior to final award of a contract.

4.0.5            Subcontractors, superintendents, foremen, and workers employed by the CONTRACTOR shall be competent and reliable. All workers must have sufficient skill and experience to properly perform the work assigned them. All workers engaged on special work or skilled work, in any trade, shall have had sufficient experience and ability in such work to perform it properly and satisfactorily and operate the equipment involved, and shall make due and proper effort to execute the work in the manner prescribed in Specifications and Contract. The OWNER may demand the dismissal of any persons employed by the CONTRACTOR in, about, or upon the Work who misconducts himself or is incompetent or negligent in the due and proper performance of his duty, or who neglects or refuses to comply with the directions given, and such person shall not again be employed hereon without the written consent of the OWNER. Should the CONTRACTOR continue to employ or re-employ any such person, the OWNER



may withhold all monies, which are or may become due, or he may suspend the Work until the CONTRACTOR complies with such order.

## **5.0**            **SPECIFICATIONS**

### **5.0.1**            **Technical Specifications**

5.0.1.1            Each well will be treated with one chemical, a corrosion inhibitor (3-to-1 orthophosphate/zinc blend) and tested to maintain a 1.35 to 1.75 PPM Orthophosphate residual and 0.30 PPM minimum zinc level in the distribution system. Corrosion Rate (mils per year) is not to exceed 1.0 mils per year.

5.0.1.2            Well #5 will also be treated with the chemical tetra potassium pyrophosphate (TKPP) and tested to maintain a (TKPP) level of 1.0 PPM.

5.0.1.3            All supplied chemicals must be National Sanitation Foundation (NSF) certified.

### **5.0.2**            **Service Specifications**

5.0.2.1            Contractor will make monthly site inspections to all locations, as scheduled by OWNER.

5.0.2.2            During each monthly inspection, the Contractor will test orthophosphate and (TKPP) levels on all applicable operational wells.

5.0.2.3            Corrosion test coupons for mild steel, copper and lead shall be installed at each corrosion rack on the first site inspection to insure that mild steel, copper and lead corrosion levels are kept at a level determined by the OWNER and coupons are to be replaced every ninety (90) days.

5.0.2.4            During each monthly inspection, the Contractor will log orthophosphate and (TKPP) inventory levels.

5.0.2.5            The Contractor will provide twelve (12) scheduled site inspections per year.

5.0.2.6            The Contractor will review log data and inventory since last visit with OWNER's representative.

5.0.2.7            The Contractor will review and address customer generated questions and issues concerning the testing.

5.0.2.8            The Contractor will maintain sufficient on-site inventories to insure continuous operation at acceptable treatment levels.

5.0.2.9            The Contractor will conduct water and pipe sample tests and metallurgical analysis for quality control and problem solving.

5.0.2.10           The Contractor will provide third party, off-site lab testing.

5.0.2.11           The Contractor will schedule all site inspections with City representative a minimum of forty eight hours before desired inspection time.

5.0.2.12           As the monthly billing is based on the OWNER'S estimated usage, at completion of the tenth month of the contract, the CONTRACTOR will provide OWNER an accounting of gallons of treated water billed versus gallons of water actually treated. The CONTRACTOR will use the eleventh and twelfth month billing periods to adjust billing to actual.

## **6.0**            **REPORTING**

6.0.1            Contractor shall provide web – based reporting site for data management programs.

6.0.2            The web-based reporting site will allow OWNER to trend any technical data; MSDS's, pictures, PDF files, or like items via the internet (secure).

6.0.3 The web-based reporting site will allow OWNER to see visual trends. This shall be available for 24-7 monitoring.

## **7.0 EQUIPMENT**

7.0.1 All equipment necessary for system treatment is in place and owned by OWNER. All chemicals must be compatible with existing equipment.

7.0.2 All equipment, including hoses, fittings and adaptors necessary for delivering and pumping the products into or out of the OWNER's bulk storage tanks will be supplied by Contractor.

7.0.3 Contractor will supply (TKKP) in three hundred (300) gallon tote tanks.

## **8.0 ENVIRONMENTAL REQUIREMENTS**

8.0.1 All products will be clearly labeled for the intended use.

8.0.2 Contractor will present at each delivery of products a Material Safety Data Sheet (MSDS) for each product.

8.0.3 The application of all products will conform to the requirements as set forth by the Alabama Department of Environmental Management (ADEM), and the Environmental Protection Agency (EPA). The feed of all products will be designed to protect the health and safety of all personnel.

## **9.0 TRAINING**

The Contractor will conduct an annual training session to review product application, testing, response to changing conditions and environmental, safety and health considerations.

## **10.0 PRODUCT DELIVERY**

10.0.1 Products will be delivered in vehicles designed for the products' transport and delivery, with all necessary safety and environmental equipment intact and operable, including signage.

10.0.2 Deliver bid items to OWNER designated locations, maintaining product in proper state, undamaged.

10.0.3 At point of delivery, awarded vendor will present an itemized delivery/service ticket **with the Purchase Order Number clearly referenced thereon**, to OWNER's receiving personnel for signing.

10.0.4 F.O.B. OWNER designated locations, as directed.

## **11.0 GENERAL**

11.0.1 Contractor will be expected to respond to emergencies or other non-reoccurring abnormal situations at no additional cost.

11.0.2 **OWNER reserves the right to make any adjustments that the superintendent and chief water operator feels is necessary to the water treatment under the voluntary guidance of the CONTRACTOR to maintain good corrosion results. These adjustments will fall under 5.0.1.1 section and are in addition to the maintenance provided during the CONTRACTOR'S regular service inspections.**

11.0.3 Contractor shall procure and maintain insurance as described above for the life of this contract. Proof of this insurance will be submitted as part of the contract package at time of initial contract award.

## **12.0 BILLING**

12.0.1 Before beginning a site inspection, OWNER will issue a Purchase Order to Contractor.

- 12.0.2 Contractor's billing rate will be per 1000 gallons of water treated by the OWNER and pumped to its customers. OWNER will furnish to Contractor the total number of gallons pumped at Contractor's monthly site inspection. Amount will be based on production of an average per day of 4,300,000 gallons pumped.
- 12.0.3 In acknowledgment of completion of the Purchase Order, Contractor will also submit to OWNER for signature, a **service ticket showing the Purchase Order Number**.
- 12.0.4 Following completion of the Purchase Order, and signing of the service ticket, Contractor will submit an invoice to:
- City of Fairhope  
Accounts Payable Department  
P.O. Drawer 429  
Fairhope, AL 36533
- 12.0.5 Each invoice will show the Bid Number, Contract Name and **Purchase Order Number**.
- 12.0.6 Each invoice will show the inclusive dates of the period covered by the invoice and will include the following attachments:
- a. Signed service ticket acknowledging the delivery of the monthly service report
  - b. Signed service ticket acknowledging the completion of work described in detail in the service ticket.

**13.0 PAYMENT**

- 13.0.1 Payment will be by Purchase Order amount, as verified by vendor's invoice.
- 13.0.2 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.

**14.0 END OF CONTRACT TRANSITION**

- 14.0.1 If not awarded the next contract, the existing Contractor will remove all supplied product from the bulk storage tanks, allowing sufficient time for the new Contractor to place supplied product in bulk storage tanks, before day tanks run dry.
- 14.0.2 The existing Contractor will then remove his remaining supplied product from the day tanks.
- 14.0.3 The OWNER will determine the date and times of transition, to comply with the new contract award date.

**END OF SPECIFICATIONS**

**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](http://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-DISCRIMINATION**

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

**37. NON EXCLUSIVE**

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

**38. NOTIFICATION AND ACCIDENT REPORTS**

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

**39. PACKAGING**

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

in cartons meeting federal specifications and shipped on non-returnable pallets.

**. 40. PATENTS**

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

**41. PAYMENT**

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

City of Fairhope  
Accounts Payable Department  
P.O. 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](http://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, entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by the City of Fairhope of Baldwin County, Alabama, hereinafter called the "Owner", and \_\_\_\_\_, of \_\_\_\_\_ a corporation organized and existing under the laws of the State of Alabama, hereinafter called the "Contractor" on the

**Bid Number 010-14 PHOSPHATE CHEMICAL SUPPLY AND CORROSION TESTING**

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

1. The contract consists of all of the items contained within this contract, the associated bid package, addenda, amendments drawings, charts and appendices, if any.
2. The **CONTRACTOR** shall perform all the **WORK** described herein.

WITNESSETH: That the parties hereto do mutually agree as follows:

1. **TERMS OF CONTRACT:**

The term of the Contract shall be for a period of ONE (1) year from the signing date of contract, with the option to renew bid or contract for TWO (2) additional years thereafter in ONE (1) year increments if terms and conditions, including pricing remain the same, and both parties are in agreement to renewing the bid or contract. Therefore, the Contract will begin on \_\_\_/\_\_\_, 2014, and terminate on \_\_\_/\_\_\_, 2015

2. **ORDERING**

The OWNER shall order materials and services by issuing Purchase Orders (or blanket Purchase Order) to the CONTRACTOR. The OWNER agrees to pay CONTRACTOR the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) per metered gallon consumed, this is inclusive of all services

3. **INVOICES**

Upon completion of work specified in the applicable Purchase Order. Contractor is to invoice OWNER upon completion of work in the applicable Purchase Order. The Owner is to be invoiced on a monthly basis, in arrears, for payment of each monthly supply of treated water and monthly corrosion testing.

4. **PAYMENT:**

a. **Compensation:**

Payment shall be based upon the rates set forth in the awarded bidder's "bid response" form.

b. **Invoices:**

i. **Invoices for Routine Services**

The Owner is to be invoiced on a monthly basis, in arrears, for payment of each monthly maintenance routine.

ii. **Invoices for Non-Routine work**

For other work outside the scope of routine, Contractor is to invoice Owner upon completion of work specified. Submittal will include signed delivery / service tickets and invoices.

iii. **Send Invoices to:**

**City of Fairhope  
Attn: Accounts Payable  
P.O. Box 429  
Fairhope, Al 36533**

c. **Payment of Invoice:**

- i. All invoices received by the Owner are payable within thirty (30) days from the date of receipt by the Owner, provided they are approved by the Owner.

5. **PAYMENT WITHHELD:**

- a. The Owner may withhold approval for payment on any request and the Owner may withhold payment to such extent as may be necessary to protect the Owner from loss on account of.
  - i. Negligence on the part of the Contractor to execute the work properly or fail to perform any provision of this CONTRACT.
  - ii. The Owner, after three (3) days written notice to the Contractor, may without prejudice to any other remedy, make good such deficiencies and may deduct the cost thereof from the overall CONTRACT sum.
  - iii. Claims filed or reasonable evidence indicating probable filling of claims.
  - iv. Failure of the Contractor to make payments properly to Subcontractors for material or labor.
  - v. A reasonable doubt that the CONTRACT can be completed for the balance then unpaid.
  - vi. Damage to City of Fairhope facilities, or another contractor or another contractor's work.

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

6. **GENERAL CONDITIONS:**

- a. **Indemnity:** The Contractor hereby agrees to indemnify and save harmless the Owner, its officers, agent, and employees, from and against any and all liabilities, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including reasonable attorney's fees for trial and on appeal, of any kind and nature, arising or growing out of, or in any way connected with the performance of this CONTRACT, to the extent caused by a negligent act or omission of the Contractor, their agents, servants, employees, Subcontractors, or others associated with the Contractor. The Contractor shall be responsible for damage to any equipment excluded from this CONTRACT, or damage or injury caused by any equipment excluded from this Contract, to the extent that the damage or injury is caused by a negligent act or omission of the Contractor.
- b. **Notification and Accident Reports:** In the event of accidents of any kind, the Contractor shall notify the Owner in writing immediately and furnish, without delay, copies of all such accident reports to the Owner. If the performance of their Work, the Contractor fails to immediately report an accident to Owner, of which the Contractor has knowledge of and which results in a fine levied against the Owner then the Contractor shall be responsible for all fines levied against the Owner.

7. **TERMINATION OF AGREEMENT**

- a. **Termination For Default:** Performance of Work under this Agreement may be terminated by the OWNER, in whole or in part, in writing, whenever the OWNER determines that the Contractor has failed to meet the requirements of this Agreement.
  - i. The OWNER has a right to terminate for default if the contractor fails to make delivery of material or does not perform the work, or if the Contractor fails to perform the Work

within the time specified in the Agreement, or if the Contractor fails to perform any other provision of the Agreement.

- ii. Failure on the part of the Contractor to deliver or perform the Work within the time specified, or within a reasonable time as determined by the OWNER, or failure on the part of the Contractor to make replacements of rejected articles, or Work when so requested, immediately or as directed by the OWNER, shall constitute authority for the OWNER to purchase in the open market, articles or Work of comparable grade to replace the articles or Work rejected, not delivered or completed. On all such purchases, the Contractor shall reimburse the OWNER within a reasonable time specified by the OWNER for any expense incurred in excess of Agreement prices.
- iii. Such purchases shall be deducted from the Agreement sum. If public necessity demands it, the OWNER reserves the right to utilize services or use and/or consume articles delivered, which are standard in quality, subject to an adjustment of price to be determined by the OWNER

- b. **Termination for Convenience:** OWNER has the absolute right to terminate the Agreement upon "Award of Contract" to another Contractor, to perform major work referenced herein. In such event, payment due on the date of cancellation of the Agreement by OWNER, shall be paid by OWNER.

## 8. **WARRANTY:**

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

## 7. **TIME OF COMPLETION:**

The OWNER and Contractor understand and agree that time is of the essence in the performance of this CONTRACT. The Contractor or OWNER, respectively, shall not be liable for any loss or damage, resulting from any delay or failure to perform its contractual obligations within the time specified, due to acts of God, actions or regulations by any governmental entity or representative, strikes or other labor trouble, fire, embargoes, or other transportation delays, damage to or destruction of, in whole or in part, equipment or manufacturing plant, lack of ability to obtain raw materials, labor, fuel or supplies for any reason or any other causes, contingencies or circumstances not subject to the OWNER's or Contractor's control, respectively, whether of a similar or dissimilar nature, which prevent or hinder the performance of the OWNER'S or Contractor's contractual obligations, respectively. Any such causes of delay, even though existing on the date of the CONTRACT, or on the day of the start of Work, shall extend the time of the OWNER'S or Contractor's performance respectively, by the length of the delays occasioned thereby, including delays reasonably incident to the resumption of normal Work schedules. **However, under such circumstances as described herein, the OWNER may, at their discretion, cancel this CONTRACT for their own convenience.**

## 8. **INSURANCE REQUIREMENTS**

See Item VII Insurance Requirements.

## 9. **ACCEPTANCE OF WORK**

The OWNER will be deemed to have accepted the Work after the OWNER agrees in writing, the work is completed. In the event Work furnished under the CONTRACT is found to be

defective or does not conform to the intent of the CONTRACT, the Contractor shall correct the deficiency before the publication date. Failure on the part of the Contractor to properly correct the deficiencies within the time period allowed will constitute the OWNER's right to cancel the CONTRACT immediately, upon written notice to the Contractor.

10. **CORRECTION OF WORK**

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

11. **RIGHT TO AUDIT**

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

12. **INTERMITTENT PROBLEMS**

Intermittent problems are to be considered a single call-back until the problem is fixed.

13. **TIME IS OF THE ESSENCE**

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

14. **SAFETY MEASURES:**

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

15. **EXTRA WORK AND ASSOCIATED COSTS:**

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

16. **FAMILIARITY WITH THE WORK:**

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

17. **CONTRACTOR LIABILITY:**

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

18. **MISCELLANEOUS PROVISIONS:**

The CONTRACTOR shall not employ Subcontractors without the express written permission of the OWNER or its agents, servants, employees and subcontractors.

The CONTRACTOR shall not assign the CONTRACT or sublet it as a whole without the express written permission of the OWNER. The CONTRACTOR shall not assign any payment due them hereunder, without the express written permission of OWNER. The OWNER may assign the contract, or sublet it as a whole, without the consent of the CONTRACTOR.

No waiver, alteration, consent or modification of any of the provisions of the CONTRACT shall be binding unless in writing and signed by the OWNER and CONTRACTOR.

The CONTRACTOR is to procure all permits, licenses, and certificates, or any approvals, of plans or specifications as may be required by Federal, State, Local Laws, ordinances, rules, and regulations, for the proper execution and completion of Work covered under this CONTRACT.

The CONTRACTOR shall at all times, keep the Work area free from accumulation of waste materials or rubbish caused by his operations, and promptly remove any such materials to an area designated by the OWNER, or remove to a waste site as directed by the OWNER. If the CONTRACTOR fails to clean up the Work site, the OWNER will complete the task and charge the for such services.

News releases, publicity releases, or advertisements relating to this Contract or the tasks or projects associated with the project shall not be made without prior City approval.

This CONTRACT is considered a non-exclusive CONTRACT between the parties.

This CONTRACT 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 CONTRACT shall be heard in the Courts of Baldwin County, Alabama.

This CONTRACT, contains all terms and conditions agreed upon by the OWNER and CONTRACTOR. No other CONTRACT, oral or otherwise, regarding the subject matter of this CONTRACT shall be deemed to exist or to bind either party hereto.

This CONTRACT shall not be construed against the party or parties preparing it. It shall be construed as if all the parties and each of them jointly prepared this CONTRACT, and any uncertainty or ambiguity shall not be interpreted against one or more parties.

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

**City of Fairhope**

ATTEST: \_\_\_\_\_  
Lisa A. Hanks, City Clerk

BY: \_\_\_\_\_  
TIMOTHY M. KANT, Mayor

**NOTARIZATION FOR THE CITY:**

STATE OF ALABAMA ]  
COUNTY OF BALDWIN ]

I, \_\_\_\_\_, a Notary Public in and for said State and County, hereby certify that Timothy M. Kant, whose names as Mayor of the City of Fairhope, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and Notary seal on this the \_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Notary  
My commission expires \_\_/\_\_/\_\_

**Individual or Partnership**

\_\_\_\_\_  
(Individual or Partnership)

\_\_\_\_\_  
(Print Name of Partner)

\_\_\_\_\_  
(Print Name of Representative Authorized to sign Bids and Contracts for the firm)

\_\_\_\_\_  
(Print Name of Partner)

\_\_\_\_\_  
(Signature of Representative Authorized to sign Bids and Contracts for the firm)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

Phone Number ( ) \_\_\_\_\_ Fax Number ( ) \_\_\_\_\_

Primary e-mail address \_\_\_\_\_

Alabama CONTRACTOR's License No. (If required) \_\_\_\_\_ Foreign Corporation Entity ID \_\_\_\_\_

**If Corporation or LLC**

Company \_\_\_\_\_

State of Incorporation \_\_\_\_\_

Company Representative \_\_\_\_\_  
(Print Name of Representative Authorized to sign Bids and Contracts for the firm)

Company Representative \_\_\_\_\_  
(Signature of Representative Authorized to sign Bids and Contracts for the firm)

Address \_\_\_\_\_

Phone Number ( ) \_\_\_\_\_ Fax Number( ) \_\_\_\_\_

Primary e-mail address \_\_\_\_\_

Alabama CONTRACTOR's License No. (If Required) \_\_\_\_\_ Foreign Corporation Entity ID \_\_\_\_\_





**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 filing 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, and any business entity that is operating unlawfully without a business license.

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

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

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

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

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

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

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

### **3.0 Mandatory Clause**

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

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

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

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

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

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

### **5.0 Contracts Involving Subcontracting**

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

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

**INVITATION SUMMARY**  
**Bid No. 010-14**  
**PHOSPHATE CHEMICAL AND CORROSION TESTING**

Issue Date:	2/3/2014
Bid Bond Requirements:	5% and no more than \$10,000
Performance Bond	WAIVED
Labor and Materials Bond	WAIVED
Certificate of Insurance Requirements:	See Standard Terms and Conditions
Pre-Bid Meeting:	NO PRE_BID MEETING
Deadline for Questions Date:	02/19/2014 (2:00pm)
IFB Closing Date (bids opened):	02/24/2014 (2:00pm)
City Internet Site: (for bid postings)	<a href="http://www.cofairhope.com">www.cofairhope.com</a>
Bid Copies: (to submit)	One (1)
Purchasing Department Contact:	Daniel P Ames, Purchasing Manager <a href="mailto:dan.ames@cofairhope.com">dan.ames@cofairhope.com</a> (251) 928-8003

**END OF INVITATION SUMMARY**

**CONTRACTOR INFORMATION**

Please print this section and turn in with your response

**010-14 PHOSPHATE CHEMICAL SUPPLY AND CORROSION TESTING**

**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: \_\_\_\_\_

**END OF INFORMATION SECTION**