CONTRACT DOCUMENTS

BID FORM AND SPECIFICATIONS
BEACH SEAWALL
FEMA REPAIR BEACH SEAWALL

PROJECT NO. PW008-10

FAIRHOPE CITY COUNCIL
Lonnie Mixon, Council President
Timothy M. Kant, Mayor

Set Number ____________  Bid Posted 07-29-10
Sealed proposals will be received by the City of Fairhope of Baldwin County, Alabama, in the City of
Fairhope offices, 555 South Section St. Fairhope, Alabama, until 2:00P.M. August 12th, 2010, 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 030-10, FEMA REPAIR BEACH SEAWALL

Questions or comments pertaining to this bid must be presented in writing, sent as e-mail or faxed to the
attention of the Purchasing Manager, Daniel P. Ames, P.O. Drawer 429, 555 South Section St., Fairhope,
Al 36532, e-mail: dan.ames@cofairhope.com, number: 251-990-0125, Seventy Two (72) hours prior to
the bid opening or will be forever waived.

All bids must be on blank forms provided in the Bid Documents. **BID BOND IS WAIVED.**

**MANDATORY PRE-BID MEETING AT 10:00 AM, ON AUGUST 5, 2010.**

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

All bids, with their guarantee (when required), must be enclosed in a sealed, opaque envelope, clearly
identified on the outside as a "Sealed Bid" with Item 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.

Failure to observe the instructions contained herein will constitute grounds for rejection of your bid. The City
reserves the right to accept or reject all bids or any portion thereof whichever is in the best interest of the City
of Fairhope.

The company that is awarded the bid must have Workman’s Compensation Insurance on all of its
employees if work is done on City premises. General Liability Insurance must be maintained to hold the
City harmless in the event of an accident. Proof of Workman’s Compensation Insurance if work is done
on City premises and General Liability Insurance specifying coverage must accompany this bid packet.
See specifications 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, non-residents of the State if a corporation, shall show evidence of having qualified
with the Secretary of State to do business in the State of Alabama. Bidder must have a current business
license or purchase a business license with the City of Fairhope prior to bid being awarded.

Daniel P. Ames,
Purchasing Manager

Posted: 07-29- 2010
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ITEM I

INVITATION AND INSTRUCTIONS TO BIDDERS

1.00 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.

1.01 PROJECT NAME: FEMA REPAIR BEACH SEAWALL
PROJECT LOCATION: BEACH SEAWALL  Fairhope, Al
PROJECT NUMBER: PW008-10

1.02 SUMMARY:

Repair storm damage  as detailed in the attached Scope of Work.

1.03 BID DEADLINE

Bids will be received until 2:00 p.m. local time, Wednesday, 07-29-10, at the City of Fairhope Offices, 555 South Section St., Fairhope, Alabama, and publicly opened shortly thereafter.

1.04 AVAILABILITY OF DOCUMENTS

Bid Documents may be obtained at the City of Fairhope Offices, 555 South Section St., Fairhope, Alabama. One set of Bid Documents can be obtained free of charge.

1.05 INQUIRIES

Direct questions to Dan Ames, Purchasing Manager, telephone number (251) 251-928-8003.

1.06 SITE EXAMINATION

Pre-bid conference to be held on site at SOUTH BEACH PARK at 10:00 AM on Thursday, 08/05/10.

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 bid being awarded. Where required by State Law, State Contractor’s license is required.

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 nonresident bidder’s state awards contract 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-resident bidder’s state of domicile as to preferences granted by that state to entities doing business in that state when letting public contracts.

1.07 BID SECURITY

BID BOND WAIVED

1.08 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 accepted Bidder shall also provide insurance as required in section 1.20.

1.09 DURATION OF OFFER

Bids maybe withdrawn in written or telegraphic request received from bidder prior to the time fixed for opening.

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

1.10 EQUAL OPPORTUNITY

The City of Fairhope is an Equal Opportunity Employer and requires that all 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.

1.11 BID SUBMISSION AND PREPARATION

Sealed Bids, signed, executed, and dated, will be received by The City of Fairhope as noted in section 1.03 above.

Submit one copy of the executed offer on the Bid Form provided, signed, and with the required Bid Security. The bid shall be enclosed in a sealed opaque envelope approximately 9x12 inches or larger, clearly identified on the outside as a SEALED BID with PROJECT NAME, PROJECT NUMBER, OWNER’S NAME AND ADDRESS, BIDDER’S NAME AND ADDRESS, BIDDER’S CONTRACTOR’S LICENSE NUMBER.

Forms furnished, or copies thereof, shall be used, and strict compliance with the requirements of the invitation, these instructions, and the instructions printed on the forms is necessary. Special care should be exercised in the preparation of bids. Bidders must make their own estimates of the facilities and difficulties attending the performance of the proposed contract, including local conditions, uncertainty of weather, and all other contingencies. All designations and prices shall be fully and clearly set forth. The proper space in the bid and guaranty forms shall be suitably filled in.

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

The Bid Form may have a Contingency Allowance listed. Add this amount to the Base Bid to derive the Total Bid. The Contingency Allowance covers unforeseen conditions and shall not be used by the 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.

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 satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.

Each project will be bid separately unless otherwise expressly requested in the contract document. Combination bids, that is bids on separate projects lumped together as a single bid or on all or none basis, will not be accepted unless the contract document expressly requests or permits same.

Alternate bids will not be considered unless requested.

1.12 BID INELIGIBILITY

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

1.13 CONTRACT TIME

The Contractor agrees to perform the work within the time stated in the Bid Form. The bidder in submitting an offer accepts the conditions of the contract period stated for performing the work.

1.14 CONSTRUCTION DOCUMENT IDENTIFICATION

The Construction Documents are the Bid Packet documents, Addenda, and all other related documents bearing the Project Title and Number. Bidders shall use supplied scope of work and specifications in preparing their Bids.

1.15 INQUIRIES/ADDENDA

Direct questions to the Purchasing Manager.

All Addenda are part of the Contract Documents. Include resultant costs in
the Bid. Addenda will be issued by e-mail or FAX to all bidders attending mandatory pre-bid meeting. It is the responsibility of the bidder to verify that all addenda have been received.

1.16 BID ACCEPTANCE

Bid with lowest Total Bid amount from a responsive and responsible bidder may be accepted if within the Contract Budget. In the event that alternates are listed on the Bid Form, the lowest combination of Total Bid and Alternate Bids accepted by the City shall be the accepted bid. Alternates shall be awarded in the order in which they are listed on the Bid Form.

1.17 BIDDERS INTERESTED IN MORE THAN ONE BID

If more than one bid is offered by any one party, by or in a name of his clerk, partner, corporation in which he has a substantial interest, or in which he is an officer, or other person, all such bids may be rejected. A party who has quoted prices on materials to a bidder is not thereby disqualified from quoting prices to other bidders or from submitting a bid directly for the materials or work. The City reserves the right to determine in its discretion whether the provisions of this clause have been violated by any bidder.

1.18 ERRORS IN BIDS

Bidders or their authorized agents are expected to examine the maps, drawings, specifications and all other instructions pertaining to the work, which will be open to their inspection. Failure to do so will be at the bidder's own risk. In case of error, in the extension of prices, the unit price will govern.

1.19 CONTRACT AND BOND

The bidder to whom award is made must, when requested, enter into written contract on the standard form as set out herein, with satisfactory security in the amount required, within the period specified, or, if no period be specified, within 15 days after the required forms are presented to him for signature.

1.20 INSURANCE REQUIREMENTS

1. Awarded bidder, at its sole expense, shall obtain and maintain in full force the following insurance to protect the awarded bidder and the City of Fairhope at limits and coverages specified herein. The City of Fairhope will be listed as “additionally insured” on all
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.

2. 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.

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

4. **Worker’s Compensation and Employers Liability**
   - Part One: Statutory Benefits as required by the State of Alabama
     - Employers Liability: $100,000 Each Accident
     - $100,000 Each Employee
     - $500,000 Policy Limit

5. **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.

6. **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. **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:
     - Premises and operations
     - Personal Injury and Advertising Injury
     - Products/Completed Operations
     - Independent Contractors
     - Blanket Contractual Liability
     - Explosion, Collapse and Underground hazards
     - Broad Form Property Damage
     - Railroad Protective Liability Insurance if work involves construction, demolition or maintenance operations on or within 50 feet of a railroad.

8. **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.

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

1.21 **COLLUSION**

If there is any reason for believing that collusion exists among the Bidders any or all bids may be rejected, and those participating in such collusion may
be barred from submitting bids on the same or other work with the City.

1.22 SUBLETTING OR ASSIGNING OF CONTRACT

Limitations: The Contractor shall not sublet, assign, transfer, convey, sell, or otherwise dispose of any portion of the contract, his right, title or interest therein, or his power to execute such contract, to any person, firm or corporation without written consent of the City, and such written consent shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract. Unless otherwise stipulated in the proposal or special provisions, the Contractor shall perform with his own organization, and with the assistance of workmen under his immediate superintendence and reported on his payroll, all contract work of a value not less than 50 percent of the total contract amount, except that any items designated in the contract as "Specialty Items" so performed by subcontract may be deducted from the total contract amount before computing the amount of work required to be performed by the Contractor with his own organization.

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

1.23 PROSECUTION OF WORK

The Contractor shall commence work within FIVE (5) days of issuance of the Notice to Proceed (NTP) by the Project Manager or as otherwise directed in writing.

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

Should the Contractor fail to maintain a satisfactory rate of progress, the Project Manager may require that additional forces and/or equipment be placed on the work to bring the project up to schedule and maintain it at that level.
Should the Contractor fail to furnish sufficient satisfactory equipment and/or labor for maintaining the quality and progress of the work at satisfactory level, the Project Manager may withhold all estimates that may become due until satisfactory quality and progress are maintained; or the contract may be annulled.
Date: __________________
BEACH SEAWALL
FEMA REPAIR BEACH SEAWALL
PROJECT NO. PW008-10

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.

The owner agrees to provide the following materials: NONE

<table>
<thead>
<tr>
<th>WORK TO BE COMPLETED</th>
<th>QTY</th>
<th>UNIT</th>
<th>UNIT PRICE</th>
<th>COST</th>
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<td>CY</td>
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<tr>
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<td>CY</td>
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<td></td>
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<tr>
<td>SOD</td>
<td>347</td>
<td>SY</td>
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</table>

TOTAL PROJECT COST* $

* Total project costs include mobilization, labor, equipment and materials as furnished by the Contractor.

The contractor agrees to complete all the work within Thirty (30) working days from date given in the Notice to Proceed (NTP) unless other arrangements are approved by the Project Manager.

Company________________________________________________________

Company Representative____________________________________________
(Print)

Company Representative____________________________________________
(Signature)

Address________________________________________________________________
_____________________________________________________________________

Phone Number (       )____________________
Fax Number (        )______________________
Alabama License No. ______________________
ITEM III

PERFORMANCE BOND

KNOW ALL MEN: That we ____________________________________________
(Insert here the name & address of legal title of the Contractor)
hereinafter called the Principal, and

____________________
___________________________________________________
(Insert here the name and address of legal title of one or more sureties)

and
and

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

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

WHEREAS, the Principal has, by means of a written agreement, dated

______________________ entered into a contract with the Owner for: PW008-10, FEMA
REPAIR BEACH SEAWALL which agreement is by reference made a part hereof,

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

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

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

Signed and Sealed this ________ day of ____________________, 20_____.

(Individual principals sign here)

Business Name ___________________________________________

(Individual principal’s signature) _______________________________(SEAL)
(Individual principal’s printed name) _________________________

(Individual principal’s signature) _______________________________(SEAL)
(Individual principal's printed name) ____________________________

(Individual principal's signature) ________________________________(SEAL)

(Individual principal's printed name) ____________________________

In the presence of:

(Witness) ____________________________________

(Witness) ____________________________________

*********************************************************************************************************

(Corporate principal signs here)

(Corporation Name) _______________________________________________

(Corporate principal's signature)____________________________________

(Corporate principal's printed name)______________________________

(Attest) ______________________________________________________

(Surety signs here) _____________________________________________

(Witness to Surety) ____________________________________________
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 _________________ 20 _______. (Hereinafter called the Contract) for which Contract and the Specifications for said work shall be deemed a part hereof as fully as if set out herein.

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

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

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

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

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

(d) In no event shall the Surety be liable for a greater sum than the penalty of this bond, or
subject to any suit, action or preceding 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".

Signed and Sealed this ________ day of ____________________, 20_____.

(Individual principals sign here)

Business Name ___________________________________________

(Individual principal's signature) _______________________________(SEAL)

(Individual principal's printed name) ____________________________

(Individual principal's signature) _______________________________(SEAL)

(Individual principal's printed name) ____________________________

(Individual principal's signature) _______________________________(SEAL)

(Individual principal's printed name) ____________________________

In the presence of:

(Witness) ____________________________________

(Witness) ____________________________________

(Witness to Surety) ____________________________________

(Corporate principal signs here)

(Corporation Name) __________________________________________

(Corporate principal's signature)__________________________________

(Corporate principal's printed name)________________________________

(Attest) ______________________________________________________

(Surety signs here) _____________________________________________

(Witness to Surety) ____________________________________________
ITEM IV

CERTIFICATE OF CONTRACTOR’S & SUBCONTRACTOR’S INSURANCE

FORM FOR CERTIFICATE OF CONTRACTORS AND SUBCONTRACTORS INSURANCE TO THE CITY OF FAIRHOPE, ALABAMA

Date _____________________

This is to certify that the policies designated below have been issued by the ________________________________ and are in force on the date borne by this certificate.

1. Location and designation of project:

2. Name and address of insured for whom this certificate is issued:

3. Type of insurance:

   Limits of Liability

   (a) Workmen’s Compensation:

   (policy number) (exp. date) (coverage) (aggregate)
   (one person) (one accident)

   (b) Contractor’s Public Liability:

   1. Bodily Injury:

   (each person) (each occurrence) (total coverage)

   2. Property Damage:

   (each accident) (aggregate)

   (c) Automobile (Motor Vehicle):

   1. Bodily Injury:
### 2. Property Damage:

<table>
<thead>
<tr>
<th>(Each Accident)</th>
<th>(Aggregate)</th>
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</table>

(d) Owner's Protective Liability:

<table>
<thead>
<tr>
<th>(Each Occurrence)</th>
<th>(Each Occurrence)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Bodily Injury)</td>
<td>(Property Damage)</td>
</tr>
</tbody>
</table>

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

The insurer agrees with the insured as follows:

1. That it will furnish to said City of Fairhope a certificate of insurance in triplicate on a form approved for such purpose by said City, setting forth the pertinent information regarding the policy to which this endorsement is attached, for each project of said City to which the policy applies.

2. That it will attach to each said certificate of insurance executed copies of any endorsement other than this endorsement which are attached to said policy at the time said policy is issued, provided only that said endorsements affect the coverage of said policy in respect of operations involved in the construction of the projects of said City to which the policy applies.

3. That it will mail to the City Council of the City of Fairhope three executed copies of each endorsement subsequently issued to become a part of said policy provided only that endorsement affects the coverages of said policy in respect of operations involved in the construction of the project of said City to which the policy applies, and provided further that such endorsement shall not be effective unless such notice is given to the City at the same time that notice thereof is given to the insured.

4. That it will mail to the City Council of the City of Fairhope at least ten days before the effective date thereof notice of cancellation of said policy, provided no cancellation shall be effective unless such notice is given to the City.

________________________________________________________

Insurer

BY: ______________________________________

Authorized Representative
ITEM V

CONTRACT

This CONTRACT is made this ______ day of _______________, ______, by and between the City of Fairhope (hereinafter "OWNER") and ____________________________ (hereinafter "CONTRACTOR"), on the PROJECT: PW008-10, FEMA REPAIR BEACH SEAWALL

The OWNER and the CONTRACTOR agree as set forth below:

1. The contract consists of all of the items contained within this bid package.

2. The CONTRACTOR shall perform all the WORK described herein.

3. The WORK to be performed under this CONTRACT shall be commenced upon execution of this CONTRACT within FIVE (5) days of the date specified in a Notice to Proceed (NTP) to be issued to the Contractor by the Owner, or its authorized representative. The work shall be completed, subject to authorized adjustments, within Thirty (30) working days from and after the commencement date stipulated in said Notice to Proceed. Liquidated damages for non-completion of the work within this time limit will be assessed at the rate of $200 per working day.

4. The OWNER shall pay the CONTRACTOR in current funds for the performance of the WORK, the CONTRACT SUM of ____________________________ ($ ______________ ) as per “Scope of Work” attached. This represents a LUMP SUM payment for performance of the WORK, which payment shall be issued after the contract is fully performed and the OWNER has inspected the WORK. Upon completion of the work, the OWNER will cause notice of final completion of the CONTRACT to be published one (1) time in a newspaper of general circulation, published in BALDWIN COUNTY and shall post notice of final completion on its bulletin board for one (1) week, and the CONTRACTOR shall certify under oath that all bills have been paid in full. The parties may complete final settlement any time after the notice has been posted for an entire week.
5. The **CONTRACTOR** shall not commence work under this **CONTRACT** until it has purchased **INSURANCE** for protection from any and all claims that may arise out of or result from the **CONTRACTOR’S** operations under the **CONTRACT**. The **CONTRACTOR** shall maintain the required insurance in the minimum amounts as described in Item IV.

6. To the fullest extent permitted by law, the **CONTRACTOR** shall indemnify and hold harmless the **OWNER**, and its agents and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorneys’ fees arising out of or resulting from the performance of the **WORK**.

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

8. The **CONTRACTOR** warrants to the **OWNER** that all materials furnished under this **CONTRACT** will be new, and that all work will be of a good quality, free from faults and defects and in conformance with the **CONTRACT DOCUMENTS**. All **WORK** not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the **OWNER**, the **CONTRACTOR** shall furnish satisfactory evidence as to the kind and quality of materials.

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

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

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

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

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

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

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

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

17. The CONTRACTOR shall at all times keep the premises free from accumulation of waste materials or rubbish caused by the CONTRACTOR’S operations.
At the completion of the WORK, the CONTRACTOR shall remove all the CONTRACTOR’S waste materials and rubbish from and about the PROJECT as well as all the CONTRACTOR’S tools, construction equipment, machinery and surplus materials. If the CONTRACTOR fails to clean up at the completion of the WORK, the OWNER may do so and the cost thereof shall be charged to the CONTRACTOR.

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

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

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

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

ATTEST: THE CITY OF FAIRHOPE, ALABAMA

_________________________________
LISA A. HANKS  
City Clerk 

BY: TIMOTHY M. KANT  
ITS: Mayor 

____________________________ 
(Name of Contractor) 

ATTEST:  
BY: _______________________________ 
(Contractor’s Representative) 

____________________________ 
ITS: __________________________ 
(Representative’s Title) 

GENERAL CONTRACTOR'S LICENSE NUMBER:  
__________________________________ 

NOTARY FOR CONTRACTOR  
STATE OF ALABAMA} 
COUNTY OF BALDWIN} 

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

Given under my hand and Notaries Seal on this _____ day of ________, _____. 

_________________________________ 
NOTARY PUBLIC 
MY COMMISSION EXPIRES: __________
NOTARY FOR CITY OF FAIRHOPE

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned authority in and for said State and County, hereby certify that TIMOTHY M. KANT as Mayor of the City of Fairhope and Lisa A. Hanks as City Clerk whose names are signed to the foregoing document and who are known to me, acknowledged before me on this day, that, being informed of the contents of the document they executed the same voluntarily on the date the same bears date.

Given under my hand and Notaries Seal on this _____ day of _____, _______.

_________________________________
NOTARY PUBLIC

MY COMMISSION EXPIRES:_________
ITEM VI
SCOPE OF WORK
FEMA REPAIR BEACH SEAWALL
SOUTH BEACH PARK
Fairhope, Al
City of Fairhope Project PW008-10

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

WORK TO BE COMPLETED
The proposed repair consists of excavating loose soil, excavating to construct a 2-ft-wide base and 1:1 (horizontal to vertical) black slope, replacing the filter cloth, placing compacted structural backfill, replacing topsoil, and replacing sod since the site is located in a park where summer activities are planned and to protect the backfill from wave erosion. Additional scope includes 1) Contractor mobilization/demobilization; 2) excavation and site preparation (estimated 300 cy); 3) haul excavated material to city dump (300 cy); 4) dispose of excavated material at city dump (300 cy); 5) place filter fabric (307 sy); 6) place structural backfill (317 cy); 7) place 1-ft-thick topsoil (8-ft x 1-ft x 390-If = 116 cy); and 8) place sod (8-ft x 390 –If=347 sy).

The facility is a timber pile with timber lagging seawall located in a city-owned and maintained park. During the disaster period of March 25 through April 3, 2009, severe wave action in Mobile Bay acted on the wall causing it to move and deflect. As a result of the wall movement, backfill material was washed out through the gaps in the lagging, causing subsidence of the ground surface. Filter fabric had been placed in the past to prevent the washing out of the backfill, but the fabric had deteriorated and was damaged by the storm action. Based on observations and measurements at the site, subsidence of the wall backfill could be seen continuously along a 390-ft-long section of the wall. The width of the subsidence ranged from 2-ft to 6-ft with an estimated depth of 6-ft.

The following terms also apply:
1. All work to be done in a neat and professional manner.
2. All applicable licenses or permit fees to be acquired and paid by CONTRACTOR.
3. CONTRACTOR to provide all necessary services and materials unless stated otherwise above.
4. CONTRACTOR to comply with all laws, codes, and regulations, including safety, fire, health, environmental and insurance.
5. CONTRACTOR to cleanup job site and remove all waste and non-salvageable material in accordance with applicable laws, codes and regulations.
6. The CONTRACTOR will be responsible for all minor facilities and equipment damages (e.g., paint, drywall and etc.) caused by the CONTRACTOR resulting from negligence during the execution of this contract. This includes but is not limited to damage too small to be covered by the CONTRACTOR’S insurance.

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

8. All salvageable material remains property of the City of Fairhope, and to be delivered by CONTRACTOR to the City of Fairhope Warehouse, 555 South Section Street, Fairhope, Al.
CITY OF FAIRHOPE, ALABAMA
STANDARD TERMS AND CONDITIONS

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.

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.

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

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.

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.

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.

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.

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.

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.

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

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.

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.

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.

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.

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.

COST OF REMEDYING DEFECTS
All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the awarded vendor.

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.

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.

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
- c) Name and address of the chemical manufacturer, importer, or other responsible party

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.

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.

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.

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.

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.

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.

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.

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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

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.

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

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

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.

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.

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.

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

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.

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.

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.

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.

PATENTS
Awarded Vendor guaranties 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.

PACKAGING
Unless otherwise specified, goods are to be packaged in cartons meeting federal specifications and shipped on non-returnable pallets.

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.

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.

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.

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.

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 the expiration of the Contract / Agreement / Purchase Order.

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.

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.

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.

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

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.

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.

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.

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.

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.

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.

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.

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.