

CONTRACT FOR CONSTRUCTION
DISASTER DEBRIS REMOVAL & DISPOSAL SERVICES

THIS CONTRACT, entered into this 19 day of April, 2024, by the Foley City Council, on behalf of City of Foley, Alabama, hereinafter called the Owner, Party of the First Party, and D&J Enterprises, Inc., organized and existing under the laws of the State of Alabama, hereinafter called the Contractor, Party of the Second Part.

Contract shall be for the period of **one year from date specified in executed contract** and continuation of contract can only be extended upon request by the City of Foley (for a timeframe as specified in the bid specification requirements) and mutual agreement of both parties.

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

The Contractor shall furnish the materials and perform the work for the

DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES

and other work, complete in place with all appurtenances, for the consideration of the unit prices set forth in the Contractor's Proposal for the various items of work and in strict and entire conformity with the provisions of the Contract, and the advertisement, proposal, addenda, and the plans and specifications (including special provisions, if any) prepared (or approved) and submitted by the Owner (such as changes to meet FEMA Eligibility requirements), copies of which are made a part hereof, as if fully contained herein; for the performance of all work and the furnishing of all labor and materials required for completion of the above project. Contractor shall comply with the Davis Bacon Act-Wage Determination laws.

The work shall be commenced upon receiving a notice to proceed to be issued to the Contractor by the Owner, or its authorized representative, and shall be completed within timeframe specified by City (working days) from and after the commencement date stipulated in said notice to proceed. In the event the Contractor should fail to complete the work within the time specified herein, the Contractor shall pay the Owner, as liquidated damages, the amount specified in Section 108 of the State of Alabama Standard Specifications for Highway construction, for each working day beyond the required date of completion.

FEDERAL PROCUREMENT STANDARDS: Contractors are required to comply with all Federal procurement standards as applicable to Disaster Debris Removal and Disposal Services performed for the City of Foley and any other terms applicable in the bid contract. Any changes or updates in these standards will be applicable to these services and contract. Should the relevant Federal Agencies require changes remedies, changed conditions, access or records retention, or suspension of work then said conditions will be immediately incorporated into this contract.

INDEMNITY PROVISIONS: The Contractor shall indemnify and hold harmless the Owner, State of Alabama, Federal Government, including FEMA, and its employees from and against any and all losses, liabilities, expenses, payments, recoveries and judgments, expenses including attorneys' fees, and all claims for damage relating to or arising out of any negligent action or failure to act by Contractor, its subcontractors, officers, agents, and employees of any of the obligations under this Agreement.

DAVIS-BACON ACT: The City of Foley acknowledges the Davis-Bacon Act (relating to prevailing wage rates) does not apply to this contract as referenced in the FEMA guidance **PROCUREMENT GUIDANCE FOR RECIPIENTS AND SUBRECIPIENTS**, dated June 21, 2016, **UNDER 2 C.F.R PART 200 (UNIFORM RULES) SUPPLEMENT TO THE PUBLIC ASSISTANCE PROCUREMENT DISASTER ASSISTANCE TEAM (PDAT) FIELD MANUAL** which states that Davis-Bacon is not applicable when work is performed under FEMA's Public Assistance Grant Program.

OPEN TRADE: Section 41-16-5, Code of Alabama (1975): By signing this submittal/contract, the awarded bidder represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.



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

THE CITY OF FOLEY:

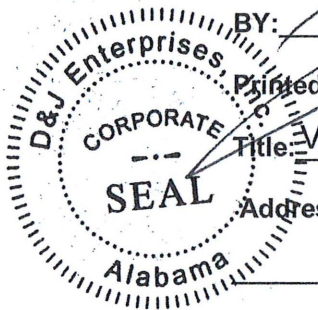
CONTRACTOR:

Ralph Hellmich
Ralph Hellmich, Mayor

D&J Enterprises, Inc.
Company Name

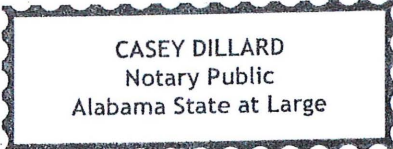
ATTEST :

Kathryn Taylor
Kathryn Taylor, City Clerk



[Signature]
BY: _____
Printed Name: Jason Sanders
Title: Vice President
Address: 3495 lee rd 10 Auburn, Al 36832

I, Casey Dillard certify that I am a Notary Public for the corporation named as Contractor herein: that Jason Sanders, who signed this Contract on behalf of the Contractor, was then Vice President of said corporation: that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporation by authority of its corporate powers.



Casey Dillard
NOTARY PUBLIC, ALABAMA

MY COMMISSION EXPIRES: My Commission Expires June 16, 2027

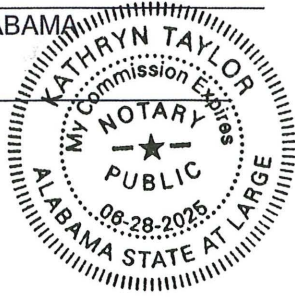
STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for the City of Foley, Alabama, hereby certify that RALPH HELLMICH whose name as MAYOR OF THE CITY OF FOLEY, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of the within instrument, he, as such officer and with full authority executed the same voluntarily and as the act of said entity.

Given under my hand and Official Seal, this the 22nd day of April, 2024.

Kathryn Taylor
NOTARY PUBLIC, ALABAMA

MY COMMISSION EXPIRES: _____



**ATTACHMENT A-1
CONTRACTOR'S PAY RATES**

A handwritten signature or mark, possibly a stylized letter 'P' or a similar symbol, located in the bottom right corner of the page.

Disaster Debris Removal & Disposal Services
Requisition No. GG-032124-DDR

D&J

Item	Description of Service	Cost	Unit
1	Mobilization and Demobilization – include in CY Rate and shall not be a separate line item	XXXX	XXXXXX
2	Cost of TDSRS tower(s) must be absorbed in the overall unit cost – DO NOT list this cost separately.	XXXX	XXXXXX
3	Vegetative and C&D Debris Removal from Public Property (Right-of-Way) and Hauling to Temporary Debris Storage and Reduction Site (TDSRS) or other disposal sites (NOTE 1 & 6)	\$8.15	CY
4	Vegetative and C&D Debris Removal from Private Property (Right-of-Entry Program) and Publicly Owner Property (other than Right-of-Way) and hauled to TDSRS or other disposal sites (NOTE 1 & 6)	\$8.15	CY
5	Vegetative and C&D Debris Removal from Public Property (Right-of-Way) and Hauling Directly to Final Disposal Site (NOTES 1, 3 & 6)	\$9.15	CY
6	Vegetative and C&D Debris Removal from Temporary Debris Storage and Reduction Site (TDSRS) and Hauling to Final Disposal Site (NOTES 2, 3 & 7)	\$6.20	CY
7	Management of TDSRS (NOTE 4)	\$1.00	CY
8	Processing (Grinding/Chipping) of Vegetative Debris at TDSRS or Final Disposal	\$3.00	CY
9	Grinding or consolidation of C&D debris at TDSRS	\$3.00	CY
10	Processing (Open Burning) of Vegetative Debris at TDSRS or Final Disposal	\$3.00	CY
11	Processing Burning of Vegetative debris using air curtain incinerators at TDSRS or final disposal	\$3.00	CY
12	Pick Up and Haul of White Goods to Site within County	\$50.00	UNIT
13	Pick Up and Haul of Electronic Waste	\$9.15	CY
14	Pick Up and Disposal of Hazardous Material	\$11.00	LB
15	Freon Management and Recycling	\$35.00	UNIT
16	Dead Animal Collection, Transportation and Disposal	\$1.00	LB
Extraction of hazardous stumps (50% of root ball exposed) resulting from trees growing on the right of way and Hauling to Final Disposal Site – (NOTE 6)			
15	6 inch diameter to 11 inch diameter (Based on Stump Conversion Table)	\$15.00	CY
			STUMP
16	12 inch diameter to 24 inch diameter (Based on Stump Conversion Table)	\$15.00	CY
			STUMP
17	25 inch diameter to 47 inch diameter	\$350.00	STUMP
18	48 inch diameter and greater	\$450.00	STUMP
Debris from leaners and hangers will be piled on right of ways and will be hauled and disposed of under items 2 – 9			
19	Removal of hazardous hanging limbs greater than 2 inches	\$95.00	PER TREE
20	Removal of hazardous standing trees 6" – 12" in diameter	\$125.00	EACH
21	Removal of hazardous standing trees 13" – 24" in diameter	\$165.00	EACH
22	Removal of hazardous standing trees 25" – 36" in diameter	\$225.00	EACH
23	Removal of hazardous standing trees 37" – 48" in diameter	\$350.00	EACH
24	Removal of hazardous standing trees greater than 48" in diameter	\$495.00	EACH
Marine Debris Removal			
25	Canals, bayous and ditches	\$31.00	PER LF
26	Bays and other open waters	\$10,000.00	PER ACRE
27	Boat removal	\$31.00	PER LF
The following items shall be billed on a time and material basis according to the attached schedules:			
28	Emergency Road Clearance	See Equipment & Labor Rates	
29	Demolition of Structures (Debris will be hauled and disposed of under items 2-9)	\$5.00	SQ/FT
30	Disaster event Generated Hazardous Wastes Abatement; Biohazardous Wastes Abatement	30.00%	COST PLUS
31	Generators, light plants, water pumps, portable toilets and other required equipment or materials	30.00%	COST PLUS
NOTES:			
1. This price assumes that TDSRS's, final disposal site or other approved disposal sites are within 30 miles. For all distances over 30 miles add _____ per cubic yard per mile.		\$1.00	COST PER CUBIC YARD PER MILE
2. This price assumes final disposal is within 30 miles of TDSRS. For all distances over 30 miles add _____ per cubic yard per mile.		\$1.00	COST PER CUBIC YARD PER MILE
3. The Contractor will pay tipping fee at final disposal site(s) and back charge City at cost.			ACTUAL COST
4. Includes management of site remediation.			
5. All stumps placed on the right of way by citizens over 24" will be converted to cubic yards per the attached FEMA Stump Conversion Chart and charged as regular debris under items 2 – 7.			
6. Invoices to be based on incoming load tickets.			
7. Invoices to be based on outgoing load tickets.			

\$12,502.80 With
 \$2,502.80 Without

Disaster Debris Removal & Disposal Services
Requisition No. GG-032124-DDR

EQUIPMENT RATES

D&J		
Equipment Description	Unit	Unit Price
JD 544 Wheel Loader with debris grapple	Hour	\$125.00
JD 644 Wheel Loader with debris grapple	Hour	\$125.00
Extendaboom Forklift with debris grapple	Hour	\$125.00
753 Bobcat Skid Steer Loader with debris grapple	Hour	\$125.00
753 Bobcat Skid Steer Loader with bucket	Hour	\$125.00
753 Bobcat Skid Steer Loader with street Sweeper	Hour	\$125.00
30-50 HP Farm Tractor with box blade or rake	Hour	\$125.00
2-2 ½ Cu.Yd. Articulated Loader with bucket	Hour	\$125.00
3-4 Cu.Yd. Articulated Loader with bucket	Hour	\$125.00
JD 648E Log Skidder or equivalent	Hour	\$225.00
CAT D4 Dozer	Hour	\$125.00
CAT D6 Dozer	Hour	\$125.00
CAT D8 Dozer	Hour	\$225.00
CAT 125 – 140 HP Motor Grader	Hour	\$165.00
JD 690 Trackhoe with debris grapple	Hour	\$125.00
JD 690 Trackhoe with bucket & thumb	Hour	\$125.00
Rubber Tired Trackhoe with debris grapple	Hour	\$165.00
JD 310 Rubber Tired Backhoe with bucket and hoe	Hour	\$125.00
Rubber Tired Excavator with debris grapple	Hour	\$165.00
210 Prentiss Knuckleboom with debris grapple	Hour	\$250.00
Self-Loader Scraper Cat 623 or equivalent	Hour	\$250.00
Hand Fed Debris Chipper	Hour	\$325.00
300 – 400 Tub Grinder	Hour	\$550.00
800 – 1,000 HP Diamond Z Tub Grinder	Hour	\$550.00
30 Ton Crane	Hour	\$165.00
50 Tone Crane	Hour	\$225.00
100 Ton Crane (8 hour minimum)	Hour	\$325.00
40-60' Bucket Truck	Hour	\$165.00
Service Truck	Hour	\$125.00
Water Truck	Hour	\$65.00
Portable Light Plant	Hour	\$45.00
Equipment Transports	Hour	\$125.00
Pickup Truck, Unmanned	Hour	\$35.00
Self-loading Dump Truck with Knuckleboom and debris grapple	Hour	\$325.00
Single Axle Dump Truck, 5 – 12 Cu.Yd.	Hour	\$100.00
Tandem Dump Truck, 16 - 20 Cu.Yd.	Hour	\$165.00
Triple Axel Dump Truck, 20 - 23 Cu Yd	Hour	\$225.00
Trailer Dump, 24 – 40 Cu.Yd.	Hour	\$135.00
Trailer Dump Truck, 61 – 80 Cu.Yd.	Hour	\$135.00
Power Screen	Hour	\$225.00
Stacking Conveyor	Hour	\$65.00
Off Road Trucks	Hour	\$225.00
Stump Grinder	Hour	\$195.00
Stump Grinder - Tracked	Hour	\$225.00
Scissor Lift	Hour	\$50.00

\$7,965.00

D&J Disaster Debris Removal & Disposal Services
 Requisition No. GG-032124-DDR

LABOR AND MATERIAL RATES

D&J		
Personnel Description	Unit	Unit Price
Operations Manager	Hour	\$75.00
Superintendent with truck, phone & radio	Hour	\$75.00
Foreman with truck, phone & radio	Hour	\$75.00
Safety/Quality Control Inspector with vehicle, phone & radio	Hour	\$65.00
Inspector with vehicle, phone & radio	Hour	\$65.00
Climber with gear	Hour	\$125.00
Saw Hand with chainsaw	Hour	\$55.00
Laborers & Flagmen	Hour	\$55.00
Public Assistance Manager	Hour	\$65.00
Documentation Clerk	Hour	\$55.00
Timekeeper	Hour	\$55.00
HazMat Professional	Hour	\$75.00
Household HazMat Inspection & Removal Crew	Hour	\$275.00
Materials Description	Unit	Unit Price
Fill Dirt for Stump Holes – Purchased, Placed, and Shaped	CY	\$50.00
		\$1,165.00

Notes:

1. The Equipment, labor and material rates shown above are for tasks requested by the City which are not covered in the rates (per cubic yard) for normal debris removal and reduction.
2. Pricing includes operator, fuel, and maintenance. Depending on the severity of the disaster, some or all of the above equipment will be required. Contractor will ensure sufficient numbers of each type of listed equipment are available to meet the needs for a particular disaster.
3. The listed equipment should cover all possible equipment needs following disaster. Contractor has access and contacts for any other equipment that might be required and will negotiate a rate with City if need arises for equipment not on list.

**ATTACHMENT B
CONTRACTOR'S INSURANCE REQUIREMENTS**

Contractor agrees, at its sole expense, to maintain on a primary and non-contributory basis during the life of this Contract, or the performance of Work hereunder, insurance coverages, limits, and endorsements as set out below. Contractor agrees to obtain Commercial General Liability, Business Auto Liability, Worker's Compensation, and Commercial Umbrella/Excess Liability before starting the work. It is the responsibility of the Contractor to ensure that no uninsured subs are utilized and all have adequate coverages and limits for this project. The Contractor agrees the insurance requirements herein as well as City's review or acknowledgment is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Contract.

Type of Coverage	Coverage Amount	Coverage Criteria
Commercial General Liability	Not less than \$1,000,000 each occurrence \$2,000,000 Annual Aggregate	Will not contain any restrictive endorsement(s). Shall endorse the City of Foley as an "Additional Insured".
Commercial Umbrella/Excess Liability <i>(Requirement may be waived based upon on size or duration of the project.)</i>	Not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.	Shall endorse the City of Foley as an "Additional Insured".
Business Automobile Liability	Not less than \$1,000,000 CSL each occurrence or 500/1,000/500.	Include liability for Owned, Non-Owned and Hired Automobiles.
Contractor's Pollution Legal Liability <i>(Required on an as needed basis dependent upon the work to be performed.)</i>	Not less than \$1,000,000 each occurrence \$2,000,000 Annual Aggregate	Shall include a minimum three year Discovery (tail) reporting period, and a retroactive date that equals or precedes the effective date of the contract or the performance of work hereunder. This coverage may be provided on a per-project basis.
Worker's Compensation & Employer's Liability		Regardless of any "minimum requirements" of the State of Alabama, contractors shall obtain coverage for all workers involved in the work.



CERTIFICATE OF INSURANCE:

Contractor agrees to provide City a Certificate of Insurance evidencing the above coverages. If the Contractor receives a non-renewal or cancellation or other material change notice from an insurance carrier affording coverage required herein, Contractor agrees to notify the City immediately with specifics as to which coverage is no longer in compliance. The City shall have the right, but not the obligation, of prohibiting Contractor from entering the Work site until a new Certificate of Insurance is provided to the City evidencing the replacement coverage. The Contractor agrees the City reserves the right to withhold payment to Contractor until evidence of reinstated or replacement coverage is provided to the City. If the Contractor fails to maintain the insurance as set forth herein, the Contractor agrees the City shall have the right, but not the obligation, to purchase replacement insurance, which the Contractor agrees to reimburse any premiums or expenses incurred by the City.

The Contractor agrees the Certificate(s) of Insurance shall:

1. Clearly indicate the City has been endorsed on the Commercial General Liability and Commercial Umbrella/Excess Liability policy as an Additional Insured. Clearly indicate the project name and project number.

2. Clearly indicated Certificate Holder(s) as follows:

Original to: City of Foley

Attn: Project Manager

P.O. Box 1750

Foley, AL 36536

NO REPRESENTATION OF COVERAGE ADEQUACY:

The coverages, limits, or endorsements required herein protect the primary interests of the City, and the Contractor agrees in no way should these coverages, limits, or endorsements required be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of the Project or otherwise.

DEDUCTIBLES, COINSURANCE PENALTIES & SELF-INSURED-RETENTION

Contractor agrees to be fully and solely responsible for any deductible, coinsurance penalty, or self-insured retention expenses; including any loss not covered because of coinsurance penalty, or coverage exclusion or limitation. The Contractor agrees any Self-Insured-Retention or deductible shall not exceed \$25,000. For deductible amounts that exceed this amount, the Contract agrees, when requested by City, to maintain a Commercial Surety Bond in an amount equal to said deductible amount.

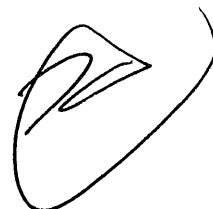
WAIVER OF SUBROGATION

Contractor agrees by entering into this written Contract to a Waiver of Subrogation in favor of the City. If a policy prohibits waiving subrogation rights without an endorsement, the Contractor agrees to endorse it with a Waiver of Transfer of Rights of Recovery against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy which voids coverage if subrogation is waived.



RIGHT TO REVISE OR REJECT

The City reserves the right to revise any insurance requirement based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work/specifications affecting the applicability of coverage. Additionally, the City reserves the right, but not the obligation, to review and reject and insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage, due to its poor financial condition or failure to operate legally in the State of Alabama. In such events, City shall provide Contractor written notice of such revisions or rejections.

A handwritten signature or mark consisting of a large, stylized letter 'P' enclosed within a circular or oval shape.

ATTACHMENT C
200CFR Appendix 508 Required Contract Clauses

FEDERAL EMERGENCY MANAGEMENT AGENCY

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern.

Contractor means an entity that receives a contract.

The services performed by the awarded Contractor shall be in compliance with all applicable grantor regulations/requirements, and additional requirements specified in this document. It shall be the awarded Contractor's responsibility to acquire and utilize the necessary manuals and guidelines that apply to the work required to complete this project. In general,

- 1)The contractor (including all subcontractors) must insert these contract provisions in each lower tier contracts (e.g. subcontract or sub-agreement);
- 2)The contractor (or subcontractor) must incorporate the applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 3)The prime contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider.

FEDERAL CONTRACT PROVISIONS

1. **Remedies** - Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II(A). This requirement applies to all FEMA grant and cooperative agreement programs.
2. **Conflict of Interest** - This Contract/Work Order is subject to chapter 112, F.S. The vendor shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Contractor's company or its affiliates.
3. **Equal Employment Opportunity** - During the performance of this contract, the contractor agrees as follows:
 1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.



2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal



opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. **Discriminatory Vendors** – (1) No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance during the term of the contract. (2) Contractor shall disclose if they appear on the discriminatory vendor list. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134, F.S. may not: 1) Submit a bid on an agreement to provide any goods or services to a public entity; 2) Submit a bid on an agreement with a public entity for the construction or repair of a public building or public work; 3) Submit bids on leases of real property to a public entity; or 4) Be awarded or perform work as a consultant under an agreement with any public entity; or transact business with any public entity.
5. **Record Retention** – A. The contractor shall maintain and retain sufficient records demonstrating its compliance with the terms of the Agreement for a period of at least five (5) years after final payment is made and shall allow the City, the State, or its authorized representatives access to such records for audit purposes upon request. B. In the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the City, the FEMA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims
6. **Diversity** – All contracting and subcontracting opportunities afforded by this solicitation/contract embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Alabama. Firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a Minority Business vendor. A list of minority owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
7. **Applicable Laws** - The contractor shall comply with all applicable federal, state and local rules and regulations in providing services to the City. The contractor acknowledges that this requirement includes, but is not limited to, compliance with all applicable federal, state and local health and safety rules and regulations and that FEMA



financial assistance may be used to fund the contract. As such, the contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

8. **Administrative, Contractual, or Legal Remedies** - Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in an Alabama court of competent jurisdiction.
9. **Termination for Cause and for Convenience** - This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (a) Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (b) An opportunity for consultation with the terminating party prior to termination.

This contract may be terminated in whole or in part in writing by the local government for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in 1 (a) above. If termination for default is effected by the local government, an equitable adjustment in the price for this contract shall be made, but no amount shall be allowed for anticipated profit on unperformed services or other work, and any payment due to the contractor at the time of termination may be adjusted to cover any additional costs to the local government because of the contractor's default.

If termination for convenience is effected by the local government, the equitable adjustment shall include a reasonable profit for services or other work performed for which profit has not already been included in an invoice. For any termination, the equitable adjustment shall provide for payment to the contractor for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.

Upon receipt of a termination action under paragraphs (a) or (b) above, the contractor shall promptly discontinue all affected work (unless the notice directs otherwise) and deliver or otherwise make available to the local government all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the contractor in performing this contract, whether completed or in process.

10. **Patents and Data** - No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the contractor. The grantor agency and the grantee shall possess all rights to invention or discovery, as well as rights in data which may arise as a result of the contractor's services.
11. **Clean Air Act and Federal Water Pollution Control Act** - (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. (2) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (3) The contractor agrees to report each violation to the Consortium member and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. (4) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
12. **Suspension and Debarment** (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C



and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into (3) This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient/applicant). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions." (5) The Contractor's debarment and suspension status will be validated by the City at the System for Award Management at www.sam.gov and the State of Alabama.

13. Reporting - The contractor will provide any information required to comply with the grantor agency requirements and regulations pertaining to reporting. It is important that the contractor is aware of the reporting requirements of the City, as the Federal or State granting agency may require the contractor to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to the granting agency.

14. Access to Records – (1) The contractor agrees to provide the City of Foley (4), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract." (4) In compliance with the Disaster Recovery Act of 2018, the (write in name of the non-federal entity) and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Pursuant to Section 20.055(5), F.S., the contractor will cooperate with the State of Alabama's Inspector General in any investigation, audit, inspection, review, or hearing.

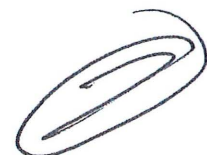
15. Energy Efficiency Standards - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

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

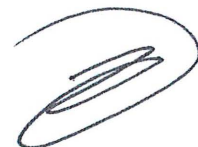
17. Compliance with Federal Law, Regulations, and Executive Orders - "This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

18. No Obligation by Federal Government - The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

19. Program Fraud and False or Fraudulent Statements or Related Acts - The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."



20. **Recovered Materials** – (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired (i) Competitively within a timeframe providing for compliance with the contract performance schedule; (ii) Meeting contract performance requirements; or (iii) At a reasonable price. (2) Information about this requirement, along with the list of EPA designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”
21. **Discriminatory Vendors List:** In accordance with Section 287.134, Alabama Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.
22. **Inspector General Cooperation:** The Parties agree to comply with Section 20.055(5), Alabama Statutes, for the inspector general to have access to any records, data and other information deemed necessary to carry out his or her duties and incorporate into all subcontracts the obligation to comply with Section 20.055(5), Alabama Statutes.
23. **Contracting With Small And Minority Businesses, Women’s Business Enterprises, And Labor Surplus Area Firms**
(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.
(b) Affirmative steps must include:
(1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
(2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
24. **Compliance With Davis-Bacon Act**
(1) Contractor. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act and the requirements of 29C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. § 3141 – 3144 and 3146 - 3148, as supplemented by Department of Labor regulations 29 C.F.R. pt. 5 as may be applicable, which are incorporated by reference into this contract. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.
(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.



(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

25. Compliance with Copeland "Anti-Kickback" Act

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

26. Contract Work Hours And Safety Standards Act 40 U.S.C. 3702 And 3704, As Supplemented By Department Of Labor Regulations (29 CFR Part 5)

Compliance with the Contract Work Hours and Safety Standards Act.

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

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

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

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

27. Rights To Inventions Made Under A Contract Or Agreement

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work



under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).

28. Byrd Anti-Lobbying Amendment 31 U.S.C. § 1352 (As Amended)

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

A handwritten signature or set of initials, possibly 'P', enclosed within a hand-drawn oval shape.