

REQUEST FOR PROPOSALS

Sealed proposals will be received by the City of Foley at 407 East Laurel Avenue, Foley, Alabama 36535 **or** P.O. Box 1750, Foley, Alabama 36536 until 2:00 p.m. CST on Wednesday, April 28, 2021 for:

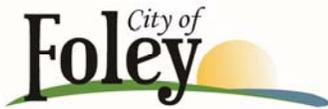
CONSULTING SERVICES FOR HAZARD MITIGATION GRANT PROGRAM (HMGP) APPLICATION AND PROJECT ADMINISTRATION COF-042821

at which time and place they will be publicly opened and read. Specifications may be obtained at Foley City Hall, 407 East Laurel Avenue, Foley, Alabama, 36535, by calling (251) 943-1545, or, the request for proposal may be downloaded from the City's website at <http://www.cityoffoley.org>. The immediate project requiring services is being funded by FEMA grant funds number: DR-4563-AL for Hurricane Sally.

To be eligible for consideration, proposals must be submitted on complete original proposal forms found in the Request for Proposal package. **The specifications and all executed proposal forms must be submitted in a sealed envelope, clearly marked, the Company name and address, the proposal name, and the date of the proposal opening.** It shall be the sole responsibility of the company to assure receipt of the proposal at Foley City Hall prior to the published time for the proposal opening.

The City of Foley reserves the right to accept or reject any or all proposals and to waive technical errors if, in the City's judgment, the best interests of the City will thereby be promoted.

Rachel Keith
Purchasing Agent
City of Foley, Alabama



REQUEST FOR PROPOSAL FORM

Proposals to be opened at: **2:00 P.M. CST**
Date: **Wednesday, April 28, 2021**

Sealed proposals will be received by the City of Foley, Alabama, at its office in Foley until the above date and time, and then opened as soon thereafter as practicable.

Rachel Keith
Purchasing Agent

SPECIFICATIONS: SEE ATTACHED

If you are unable to furnish an item as specified and desire to offer a substitute, give full description of the item. No errors will be corrected after proposals are opened. Substitutions will be treated as "approved equivalent or equal" which is discussed in paragraph 1.05 of the proposal documents *GENERAL CONDITIONS*. Please refer to Paragraph 1.05 prior to offering any substitutions. No prices shall include State or Federal Excise Tax. Tax exemption certificates furnished upon request. City reserves the right to accept or reject all proposals or any portion thereof.

We are in a position to begin work on this project per the attached proposals within _____ days after receipt of notice to proceed. Any attachment hereto is made and becomes a part of this inquiry and must be signed by the company.

I hereby affirm I have not been in any agreement or collusion among companies or prospective companies in restraint of freedom of competition, by agreement to bid at fixed price or to refrain from bidding, or otherwise. I am not currently engaged in, nor will 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.

THIS BID MUST BE NOTARIZED

Sworn to and subscribed before me
this the _____ day of
_____, 2021.

FIRM: _____

BY: _____
Signature accepted in ink only

STREET ADDRESS: _____

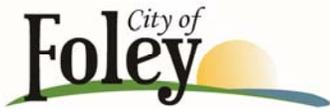
NOTARY PUBLIC

CITY: _____ STATE: _____

BIDS MADE OUT IN PENCIL WILL NOT
BE ACCEPTED.

TERMS: _____
FOR CASH PAYMENT WITHOUT REGARD TO
DATE OF REMITTANCE

ALL COMPANIES MUST USE OUR PROPOSAL FORM(S). NAME AND ADDRESS, BID NAME, OPENING DATE AND TIME MUST BE PRINTED ON THE OUTSIDE OF THE SEALED ENVELOPE. EACH PROPOSAL MUST BE IN SEPARATE ENVELOPES.



COMPANY INFORMATION:

Company Name:		
Submitted By:		
Mailing Address:		
Telephone Number:		
Fax Number:		
E-Mail Address:		
Ethics Disclosure:	Are you a City of Foley Appointed Official? Are you a City of Foley Employee? Are you the spouse of a City of Foley Appointed Official or Employee?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

ADDENDUM ACKNOWLEDGEMENT:

Company acknowledges receipt of the following addendums and has incorporated the requirements of such addendums into this Request for Proposal.

(List all addendums issued for this proposal.)

No.	Date

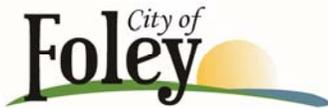
No.	Date

No.	Date

No.	Date

No.	Date

No.	Date



Introduction

The City of Foley is soliciting sealed proposals and qualifications from qualified firms to provide professional services to conduct grant application preparation, program management and grant administration work under FEMA’s Hazard Mitigation Grant Program (HMGP).

Consulting services shall be performed in accordance with all applicable Federal, State, and local laws; regulations, Executive Orders, and authorizing legislation, including but not limited to, the Robert T. Stafford Act (Federal Emergency Management Agency (FEMA) (HMPG). Section 404 of the Robert T. Stafford Disaster and Emergency Assistance Act of 1988 established the Hazard Mitigation Grant Program (HMGP).

Schedule

The following schedule shall be adhered to in so far as practical in all actions related to this procurement:

- A. Advertising date of proposals..... **Friday, April 9, 2021**
- B. Receipt of proposals..... **2:00 p.m., cst, Wednesday, April 28, 2021**
- C. Review of proposals..... **April 28 – 30, 2021**
- D. Proposed Council approval..... **May 3, 2021**

Special Conditions

- 1. The selection of a consultant will not guarantee any minimum amount of services under the contract.
- 2. The selection of a Consultant by the City does not guarantee the Consultant a contract.
- 3. The City reserves the right to reject any or all proposals; to negotiate any elements of a proposal; to conduct interviews at its sole discretion; and to solicit and/or select consultants outside of the scope of this RFP. The City may award one contract or multiple on-demand contracts in an effort to obtain the best match and availability of the consultant(s) for actual disasters that occur.
- 4. The City assumes no responsibility or liability for costs incurred by respondents to this request, including any requests for additional information, interviews or negotiations.
- 5. All applicable State of Alabama and Federal rules and regulations must be adhered to by the consultant.

Detailed Scope of Work

The intent of this Request for Proposal (RFP) is to obtain proposals from qualified and experienced consultants who are interested in assisting the City with the development of and submission of grant applications, grant administration and other consulting services associated with management and implementation of a FEMA Hazard Mitigation Grant Program (HMGP). The selected consultant must have knowledge of and provide all services in full compliance with all applicable local, State, and Federal laws, regulations, executive orders, and FEMA requirements.

This will include working with federal agencies, state agencies, and several departments within the City of Foley. Some of the services the successful proposers may be asked to perform include, but are not limited to the following:

- 1. Provide grant management advice to the City related to FEMA, Federal, or State agency pass-through grants.
- 2. Kickoff Meeting to discuss what the City’s Letter of Intent and project development.
- 3. Successful submission of the HMGP grant application through AEMA portal on behalf of the City of Foley.
- 4. Contract with all necessary firms such as architects, appraisers, civil, electrical, structural engineers to design the project as described by the City of Foley.

5. Creation of bid packet and construction scope of work and engineered plans. Manage bid process from start to finish, ensuring FEMA guidelines and regulations for procurement are followed.
6. Monitor construction process, certify contractor pay requests, and submittal to the City for payment.
7. Assist in grant reimbursement process.
8. Finalize construction and grant closeout.

Basis of Award

The contract will be awarded to the responsive, responsible consultant who ranks highest in the evaluation process based on the criteria specified in the Request for Proposals instructions.

Tie Proposals

Should a tie occur, an alternate committee member will be asked to evaluate the firms based on the submitted proposals this alternate score will be the tie-breaker.

Right to Reject

The City of Foley reserves the right to:

- a. reject any or all proposals received;
- b. select and award any portion of any or all proposal items;
- c. waive minor informalities and irregularities in the consultant's proposal.

A proposal may be rejected if it is non-responsive or does not conform to the requirements and instructions in this RFP. A proposal may be non-responsive by reasons, including, but not limited to, failure to utilize or complete prescribed forms, conditional proposals, incomplete proposals, indefinite or ambiguous proposals, failure to meet deadlines and improper and/or undated signatures. Other conditions which may cause rejection of proposals include evidence of collusion, obvious lack of experience or expertise to perform the required work, submission of more than one proposal for the same work from an individual, consultant or corporation under the same or a different name, failure to perform or meet financial obligations on previous contracts. Proposals may be rejected if not delivered on or before the date and time specified as the due date for submission of the proposal.

Execution of Agreement

The successful consulting firm shall, within 10 days after receipt of the Notice of Award and the contract forms or documents, sign and deliver to the Purchasing Agent. The awarded firm shall also deliver the policies of insurance or insurance certificate as required. All insurance documents shall be approved before the successful firm may proceed with the work. The executed contract will meet all rules for Federal grants, as provided for in Title 44 Code of Federal Regulations and 2CFR 200.317 through 200.326 and Appendix II.

Termination Clause

The City reserves the right to terminate with or without cause any contract resulting from this RFP with (10) ten calendar days written notice to the Consultant.

Licenses

Consultant shall be properly licensed (if applicable) for the appropriate work specified in this Request for Proposals. All consultants are requested to submit any required license(s) with their qualifications.

Subcontractors

The consultant will be the prime service provider and shall be responsible for all work performed and contract deliverables. Proposed use of subcontracts should be included in the proposer's response.

Any subcontracts issued under this contract must comply with the necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, in accordance with 2CFR200.321. Note: The use of any Contractor, or Sub-Contractor, who has been declared debarred by the Office of Federal Contract Compliance Programs (OFCCP) is prohibited. A complete list of federally disbarred contractors can be found at <https://www.sam.gov>. It is the sole responsibility of the Consultant to ensure that any subcontractor(s) or subconsultant(s) are in good standing and not on the debarment list.

Requests for use of subcontractors received subsequent to the solicitation process are subject to review and approval by the City.

The City reserves the right to request and review information in conjunction with its determination regarding a subcontract request. All subcontractors are subject to the same requirements of this solicitation as the awarded contractor.

Insurance

Consultants shall furnish insurance certificates indicating satisfactory insurance coverage at its sole cost and expense, maintain in full force and effect during the term of the agreement, policies of insurance of the type and in the minimum amounts stated below. Consultants, as part of their proposal, shall confirm that they possess the amounts and types of insurance which are described herein.

Such policy(s) will contain appropriate cross liability clauses, be primary and noncontributory, provide a waiver of subrogation in favor of the City and will provide that the City will be given 30 days advance written notice in the event of cancellation, termination or modification which materially restricts the coverage thereof.

Prior to the execution of this agreement, Consultant will provide the City with a certificate of insurance and a copy of the policy endorsements naming the City of Foley, its employees, directors, officers, agents, independent contractors, successors and assigns, and other authorized representatives as additional insured to the extent of the contractual obligation assumed by the consultant on all insurance policies reflected below with the exception of the workers compensation and professional liability policies. The certificate shall show a waiver of subrogation and hold harmless agreement in favor of the City of Foley, its employees, directors, officers, agents, independent contractors, successors and assigns, and other authorized representatives on all policies reflected below.

1. Comprehensive General Liability Insurance - Each Occurrence Limit of \$1,000,000 for Bodily Injury and Property Damage and \$2,000,000 general aggregate for Products/Completed Operations, Comprehensive General Liability insurance shall include coverage for property damage; personal injury; contractual liability; products & completed operations; and independent contractor's coverage. Consultant must provide a copy of the Declaration of Coverage Pages containing the policy forms and exclusions on their General Liability, Auto Liability, Workers Compensation policies. Certificates of Insurance, Additional Insured, Primary and Non-Contributory and Waiver of Subrogation endorsements or policy forms reflecting these terms must be submitted to risk for review and approval.
2. Workers' Compensation Insurance – The Consultant shall purchase and maintain workers' compensation insurance for all worker's compensation obligations imposed by state law and employer's liability limits.
3. Employers Liability Insurance - \$100,000 Bodily Injury by Accident each employee; \$100,000 Bodily Injury by Disease each employee; \$500,000 Bodily Injury by Disease policy limit.

4. Comprehensive Automobile Liability Insurance - \$1,000,000 combined single limit of insurance per occurrence for Bodily Injury and Property Damage; \$1,000,000 Hired & Non Owned Auto Liability.
5. Professional Liability – \$1,000,000 – If the Professional Liability is written on a claims made form, the retro date will need to be reflected on the certificate of insurance.

The successful Consultant must submit, prior to commencement of any work, a Certificate of Insurance showing the City of Foley as additional named insured on each of the policies referenced above, except for the coverage's required by paragraphs (2) and (5).

The Consultant shall either require of its Subconsultant's to procure and to maintain Subconsultant's Comprehensive General Insurance and Automobile Liability Insurance of the type and in the same amounts specified above or insure the activities of its Subconsultant's in the Consultant's own policies.

Hold Harmless and Indemnification

1. The consultant shall indemnify and hold harmless the City, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the consultant and other persons employed or utilized by the consultant in the performance of the contract.
2. The parties understand and agree that such indemnification by the consultant relating to any matter which is the subject of this Contract shall extend throughout the term of this Contract and any statutes of limitations thereafter.
3. The consultant's obligation shall not be limited by or in any way to any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

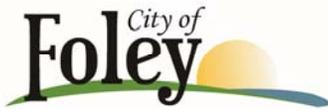
Duty to Pay Defense Costs and Expenses

1. The consultant agrees to reimburse and pay on behalf of the City the cost of the City's legal defense, through and including all appeals, and to include all attorneys' fees, costs, and expenses of any kind for any and all 1) claims described in the Hold Harmless and Indemnification paragraph or 2) other claims arising out of the consultant's performance of the contract and in which the City has prevailed.
2. The City shall choose its legal defense team, experts, and consultants and invoice the consultant accordingly for all fees, costs and expenses upon the conclusion of the claim.
3. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

Additional Information

If the Bidder employs persons in the State of Alabama, the bidder must comply with Section 31-13-9, Code of Alabama 1975, and shall provide proof of enrollment in the E-Verify program with their bid. A copy of the signed Memorandum of Understanding (MOU) generated upon completion of enrollment in the E-Verify program is acceptable. (*See General Conditions, Item 1.17 for more information.*)

All questions related to this proposal must be documented through email and should be sent to Rachel Keith at rkeith@cityoffoley.org no later than 72 hours prior to the scheduled proposal opening. No questions will be addressed by any means other than email. Answers will be emailed to all companies in the event that clarification is required. If further clarification is needed about a change within the proposal, an Addendum will be emailed stating the change. All addendums must be acknowledged in the "Addendum Acknowledgment" section located on page 3 of this request for proposal.



Instructions to Companies

To be eligible for consideration, proposals must include required forms found in the Request for Proposal package. **Any executed forms must be submitted along with the proposal in a sealed envelope, clearly marked, identifying the project name, date and time of the bid opening, the company name and address.** It shall be the sole responsibility of the company to assure receipt of the proposal at the Foley City Hall prior to the published time for the proposal opening. If hand delivering, the proposal envelope must be "Date and Time" stamped at the receptionist's desk when the proposal package is turned in.

Proposals should be sent to one of the following addresses:

U.S. Postal Service
City of Foley
Attn: Purchasing Agent
P.O. Box 1750
Foley, AL 36535

Physical Address
City of Foley
Attn: Purchasing Agent
407 E. Laurel Avenue
Foley, AL 36536

Proposal Requirements

Each firm's proposal shall include sufficient information to enable the City to evaluate the capability of the firm to provide the desired services. The data shall be significant to the project and discussions of past performances on other projects shall be minimized except as they relate to the proposed work.

Consultants should submit one (1) original and one (1) electronic version of the package. The electronic version should be in pdf format on a USB drive. Electronic versions submitted via e-mail will not be accepted. If the proposal contains confidential information, such information shall be in a separate pdf document. Proposals shall be valid for a period of 180 days after the opening.

Emphasis in each proposal must be on completeness and clarity of content.

In order to expedite the evaluation of proposals, it is essential that consultant follow the format and instructions contained in the RFP.

The following information is the minimum content required for the proposal and will be used to compare and evaluate the firms:

(Please number and title tabs for each section as indicated).

Tab I: Cover Letter / Management Summary

Provide a cover letter, signed by an authorized officer of the firm, indicating the underlying philosophy of the firm in providing the services stated herein. Include the name(s), telephone number(s) and email(s) of the authorized contact person(s) concerning proposal. Submission of a signed proposal is the Consultant's certification that the Consultant will accept any awards as a result of this RFP.

Tab II: Firms Qualifications (30 points/3 Page Limit)

In this tab, provide the following:

- Provide an overview of the Firm's history, capability and business ability relative to the City's requirements.
- Include information on organizational structure. Include any special expertise for your company.
- Describe your firm's qualifications in providing guidance with FEMA HMPG grants you have prepared and submitted that resulted in the construction of storm shelters for First Responders or other HMGP projects in Alabama consistent with FEMA requirements.

- Provide a complete list of all government agencies for which you are currently providing, or have provided since 2015. Indicate the dates (length) of service for the listed clients and specify the name, title, addresses and telephone number of individuals. The City may contact those clients for whom you have provided HMGP services for further information concerning the services provided.
- Provide information on HMGP grants procured with dollar amount of awards and project description.
- Provide information related to your experience with any FEMA or State appeals. Provide the details as to the outcome, the duration of the appeal and any other related data.
- Provide information related to your experience with FEMA and State audits. Provide the number of audits your firm has been involved with, the number of findings against the organization that the auditors identified; if the findings were significant and overall what they found and the duration of the audits.
- Describe contacts and relationships with your other clients and interaction with FEMA and State Agencies.
- Provide a summary of any litigation, claim(s), or contract disputes filed by or against the Respondent in the past five (5) years which is related to the services that Respondent provides in the regular course of business. State if there are NO litigation claim(s) or contract dispute(s) filed by or against the Respondent in the past five (5) years.

Tab III: Specialized Expertise of Team Members (25 points\3 Page Limit, excluding resumes)

- Provide a list of individuals who will be assigned to this project for the City and their specific roles. Include summary resumes of the individual to reflect their experience and education, particularly as they relate to the firm's engagements since 2015. Identify the primary contact who will be actively engaged in serving the account and identify the current client workload of this individual by counties, cities, special districts, and other as may apply.
- If lead project staff members are to be changed, request must be made in writing and pre-approved by the City.
- Describe the experience that these types of employees have in working with HMGP grants.
- Describe the training that your employees have had regarding FEMA grant rules and guidelines, State pass-through grant rules for reimbursement, and any further training for reimbursement.
- Describe if your employees are full time employees or contracted employees.

Tab IV: Technical Approach (20 points/5 Page Limit)

- Explain the Respondent's understanding of the project and outline the Respondent's proposed approach to completing the anticipated scope of work.
- Provide a description of the firm's general approach to the proposed scope of services to include team organization, staff assignments, schedules, quality assurance and accountability.
- Discuss the availability of the primary contact relative to current and future client workload. Include for each individual the estimated number of hours that will be contributed to this project and in what capacity they would serve on this project. Include information on supervisory personnel.

Tab V: Cost of Services to the City (15 points/5 Page Limit)

- Submit hourly rates for services. These must include rates by position type for project manager, subject matter experts, technical support, project writer, data manager, closeout specialist, research assistant, and any other positions as determined necessary by the consultant.
- Submit a sample project fee schedule based on project milestones and number of anticipated hours associated with each milestone based on a past HMGP grant.
- Provide examples (if any) where you have recovered all or part of your fees as part of the grant.



- All hourly rates shall include all applicable overhead and profit. All other direct expenses shall be billed at cost without markup.
- Provide an estimate and projected costs for any travel related expenses to include the number of trips anticipated and estimated cost per trip.

Tab VI: References (10 points)

In order for the consultant to be awarded any points for this tab, the City requests that the consultant submits three (3) references from clients whose projects are of a similar nature to this solicitation. Information provided for each client shall include the following:

- Client name, address and email address and telephone number.
- Description of services provided.
- Time period of the project or contract; briefly describe if project met or exceeded the schedule outlined
- Client's contact reference name, email and current telephone number.
- Dollar value of project; briefly describe if the completed project met, or came under budget.

Tab VII: Acceptance of Conditions

Indicate any exceptions to the terms and conditions of the RFP, and to insurance requirements or any other requirements listed in this RFP. If no exceptions are indicated in this tabbed section, it will be understood that no exceptions to these documents will be considered after the award, or if applicable, during negotiations. Exceptions taken by a consultant may result in evaluation point deduction(s) and/or exclusion of proposal for Selection Committee consideration, depending on the extent of the exception(s). Such determination shall be at the sole discretion of the City and Selection Committee.

Tab VIII: Additional Required Form Submittals

- Request for Proposal Form (PDF page 2)
- Company Information Page (PDF page 3)
- Copy of Certificate of Insurance
- Proof of E-Verify Documentation in the form of signed Memorandum of Understanding (MOU)
- Appendix A
- Debarment Status Certification

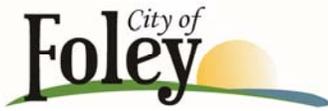


Evaluation Process and Criteria

Representatives from the City will review the submittals for completeness. Those submittals deemed complete and responsive will be forwarded to the Evaluation Committee.

- A. Evaluation of Proposals. Only written responses of statements of qualifications, performance data, and other data received in the purchasing office by the publicized submission time and date shall be evaluated.
- B. The initial ranking of proposals is based upon the points given in the scoring sheet utilizing the evaluation criteria in the RFP.
- C. Presentations/Interviews. The Evaluation Committee may choose to conduct formal presentations/interviews with firms prior to final ranking.
- D. Final Ranking. The Evaluation Committee shall use the ordinal process to rank the firms. The respondents shall be listed in order of preference. The list of best-qualified persons shall be approved by the City Council, as appropriate, prior to beginning contract negotiations.

The City will make the selections primarily on the basis of the response to this RFP and any further information received from respondents if interviewed. Although information additional to that requested in this RFP may be provided by respondents, any consideration of this information shall be at the discretion of the City.



APPENDIX A, 44 C.F.R. PART 18-CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

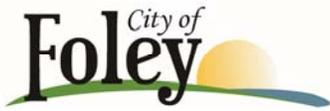
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Consultant's Authorized Official

Name and Title of Consultant's Authorized Official

Date



**Certification Regarding Debarment, Suspension, Ineligibility
And Voluntary Exclusion**

Consultant Covered Transactions

- (1) The prospective Consultant of the Recipient, _____, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Recipient's Consultant is unable to certify to the above statement, the prospective Consultant shall attach an explanation to this form.

CONSULTANT:

By

Signature

Recipient's Name

Name and Title

Division Contract Number

Street Address

FEMA Project Number

City, State, Zip

Date

APPENDIX B FEDERAL REGULATIONS CONTRACT REQUIREMENTS

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. **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.
2. **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.
3. **Lobbying** - No funds received pursuant to this Agreement may be expended for lobbying the Federal or State Legislature, the judicial branch, or a federal or state agency. The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. (3) The undersigned shall require that the language of this certification be included in the award

documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

4. **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
5. **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.
6. **Applicable Laws** - The contractor shall comply with all applicable federal, state and local rules and regulations in providing services to the Consortium. 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 will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
7. **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.
8. **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 I (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.

9. **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.
 10. **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 \$100,000 financed in whole or in part with Federal assistance provided by FEMA.
 11. **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, its 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 the City. 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 the Alabama Department of Emergency Management, 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.
 12. **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.
 13. **Access to Records** – (1) The contractor agrees to provide the City, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract."
- 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.
14. **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.

15. **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."
16. **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.
17. **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."
18. **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 is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.
19. **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.
20. **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.
21. **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.
22. **Equal Opportunity Clauses:** Compliance with Regulations: The contractor shall comply with the Acts and the Regulations relative to Nondiscrimination in federally-assisted programs, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
23. **During the performance of any awarded "federally assisted contracts" 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 by the contracting officer 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 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 by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such 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 in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) the contractor will include the provisions of paragraphs (1) through (7) 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

24. Compliance With Davis-Bacon Act

(1) Contractor. 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.

(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.

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 the awarding agency.

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.