

CONTRACTUAL DOCUMENTS, GENERAL CONDITIONS,  
SPECIAL PROVISIONS AND TECHNICAL SPECIFICATIONS

FOR

HURRICANE SALLY ROOFING REPAIRS

CITY OF ORANGE BEACH, ALABAMA



OCTOBER 2020

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## **PUBLIC NOTICE**

### **INVITATION TO BID**

Sealed bids will be received, opened, and read aloud in public session for **HURRICANE SALLY ROOFING REPAIRS** for the **CITY OF ORANGE BEACH, ALABAMA**, at **10:00 A.M. CT on Thursday, October 1, 2020**, at the City Hall Municipal Complex located at 4099 Orange Beach Blvd., Highway 161, Orange Beach, Alabama. Work will include all materials and labor for reroofing specified City facilities. Qualified contractors are invited to bid.

**All bidders must attend a mandatory pre-bid meeting on Tuesday, September 29, 2020, at 10:00 A.M. CT at the City Hall Municipal Complex located at 4099 Orange Beach Blvd., Highway 161, Orange Beach, Alabama. Bids from bidders who do not attend this conference will be rejected.**

Bids in excess of Fifty Thousand Dollars (\$50,000) must be accompanied by a certified check or bid bond payable to the City of Orange Beach in an amount not less than 5% of the bid amount, but in no event more than \$10,000. Performance and Labor and Material Payment Bonds will be required from the Contractor. The Contractor will be required to obtain a business license from the City to operate within the Corporate Limits.

Bid specifications may be obtained from Orange Beach City Hall, 4099 Orange Beach Blvd., Orange Beach, Alabama, Monday through Friday from 8:00 a.m. until 5:00 p.m., or downloaded from the City's website at [www.orangebeachal.gov](http://www.orangebeachal.gov).

Sealed bids may be mailed or delivered directly to the City of Orange Beach prior to the public opening. All sealed bids must be clearly and legibly marked "SEALED BID," the bidder's name, the name of the bid, and the opening date and time. Contact Renee Eberly at (251) 981-6806 or [reberly@orangebeachal.gov](mailto:reberly@orangebeachal.gov) with any questions.

Sealed bids must be mailed to the following address:  
City of Orange Beach, Attention: City Clerk, P.O. Box 458, Orange Beach, Alabama 36561

Or hand delivered to:  
City of Orange Beach, Attention: City Clerk, 4099 Orange Beach Blvd., Orange Beach, Alabama 36561

Be advised that overnight delivery by express or courier to Orange Beach is not guaranteed. Faxed bids will not be accepted.

The lowest responsive, responsible bid will be accepted with key consideration based upon best value and benefit to the public. The City of Orange Beach reserves the right to reject any and all bids, to waive any irregularity in the bids received, and to accept or reject any items of the bid for the benefit of the public. No conditional bids will be accepted. No bid may be withdrawn for a period of thirty (30) days after the scheduled closing date and time for the receipt of bids.

THE CITY OF ORANGE BEACH, ALABAMA



**INVITATION TO BID**  
**Requisition No. 2020-1001**

INVITATION TO BID DATE: **September 25, 2020**

BID TITLE: **Hurricane Sally Roofing Repairs**

PLACE OF BID OPENING: **City of Orange Beach, City Hall, 4099 Orange Beach Blvd.**

BIDS MUST BE RECEIVED BEFORE: **October 1, 2020 at 10:00 A.M. (Central)**

BIDS WILL BE PUBLICLY OPENED: **October 1, 2020 at 10:00 A.M. (Central)**

Sealed bids will be received by the City of Orange Beach at the Office of the City Clerk located at Orange Beach City Hall until the above time and date at which time they will be opened as soon thereafter as practicable.

NOTE: For this bid to be considered responsive, all information in this section should be supplied, as appropriate, or the entire bid may be disqualified. Bid response must be in ink or typed with original signature. No errors will be corrected after bids are opened. No prices shall include State or Federal Exercise Taxes; tax exemption certificates furnished upon request. The City of Orange Beach reserves the right to accept or reject all bids or any portion thereof. The City reserves the right to require a bid bond, in which case specific information shall be provided the bid documents.

**ALL BIDS MUST BE RETURNED AS FOLLOWS:**

All bidders must use the bid form provided in the bid documents and show on the envelope "SEALED BID," the bid title, the bidder's name, and the opening date and time. Each bid must be in a separate envelope.

U.S. Postal Service  
City of Orange Beach  
Attention: City Clerk  
P.O. Box 458  
Orange Beach, Alabama 36561

Courier (UPS, FedEx, etc.)  
City of Orange Beach  
Attention: City Clerk  
4099 Orange Beach Blvd.  
Orange Beach, Alabama 36561

1. For the purchase or lease of personal property only, a resident person, firm or corporation, whose bid is no more than five percent (5%) greater than the lowest bid, may be the successful bidder and the contract may be awarded to such resident responsible bidder. A resident bidder is defined by the City Council of Orange Beach as any business located within Baldwin County.
2. Contact Nick Klarman, Construction Manager at 251-652-5060/nklarman@orangebeachal.gov for questions concerning the technical specifications.
3. Contact Renee Eberly, City Clerk/Procurement Officer at 251-981-6806/reberly@orangebeachal.gov for questions concerning technical specifications or general bid procedures.

**BID FORM – HURRICANE SALLY ROOFING REPAIRS**

<b>Item</b>	<b>Description</b>	<b>Lump Sum Bid Amount</b>
<b>1</b>	<b>Reroofing of Adult Activity Center, 26251 Canal Road</b> The lump sum bid for this item shall be compensation in full for a roof replacement at the Adult Activity Center, as specified.	\$ _____
<b>2</b>	<b>Reroofing of Wildlife Center, 4960 Walker Lane</b> The lump sum bid for this item shall be compensation in full for a roof replacement at the Wildlife Center, as specified.	\$ _____
<b>3</b>	<b>Reroofing of Field House, 4385 William Silvers Parkway</b> The lump sum bid for this item shall be compensation in full for a roof replacement at the Field House, as specified.	\$ _____
<b>BID TOTAL</b>		\$ _____

**Days to Complete** \_\_\_\_\_

The bidder acknowledges receipt of the following addenda covering revisions to the bid documents, and states that the costs, if any, of such revisions have been included in the base bid and other prices quoted herein:

Addendum No. _____	Dated: _____
Addendum No. _____	Dated: _____
Addendum No. _____	Dated: _____

Note: If no addenda have been received, write in "none."

The undersigned bidder acknowledges having inspected the site(s) and the conditions affecting and governing the accomplishment of the project, and proposes to furnish all materials and perform all labor, as specified, to complete the project.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Federal Employer ID No. *(if no FEIN, enter SSN)*

\_\_\_\_\_  
Alabama Contractors License No.

\_\_\_\_\_  
Company Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

City of  
**Orange Beach**  
A L A B A M A  
*Life is better here*

I/we agree to furnish at the prices shown and guarantee that each offered will meet or exceed all specifications, terms and conditions, and requirements listed. This is the total price and includes all delivery or freight charges to the City of Orange Beach. Any attachment hereto is made and becomes a part of this inquiry and must be signed by the bidder. I herein affirm that I have not been in any agreement or collusion among bidders in restraint of competition to bid at a fixed price or to refrain from bidding otherwise. By signing this contract, the company 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.

SWORN TO AND SUBSCRIBED  
 BEFORE ME THIS DAY OF

\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 Company Name

\_\_\_\_\_  
 Authorized Signature (INK)

\_\_\_\_\_  
 Mail Address

\_\_\_\_\_  
 Typed Authorized Name

\_\_\_\_\_  
 Notary Public

\_\_\_\_\_  
 City, State, Zip

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Commission Expires

\_\_\_\_\_  
 Phone Including Area Code

\_\_\_\_\_  
 Fax Number

## **BID SPECIFICATIONS**

### **A. Project Description**

The successful bidder shall provide roof replacements for three City Facilities located in Orange Beach, Alabama, 36561, per the following bid specifications, for roofs damaged during Hurricane Sally. Bid total shall be firm, net, delivered pricing, and shall include the cost of all labor and materials required to complete the project. The City of Orange Beach is tax exempt.

### **B. Project Location(s)**

Adult Activity Center, 26251 Canal Road, Orange Beach, AL 36561

Wildlife Center, 4960 Walker Lane, Orange Beach, AL 36561

Field House, 4385 William Silvers Parkway, Orange Beach, AL 36561

### **C. Mandatory Pre-Bid Meeting**

All bidders must attend a mandatory pre-bid meeting on Tuesday, September 29, 2020, at 10:00 A.M. CT at the City Hall Municipal Complex located at 4099 Orange Beach Blvd., Highway 161, Orange Beach, Alabama. Bids from bidders who do not attend this conference will be rejected. The pre-bid meeting will include a guided walkthrough of the project locations.

### **D. Scope of Work**

1. Contractor is responsible to provide complete roof replacements at the Orange Beach Adult Activity Center, Wildlife Center, and Field House in this scope of work, including all labor, materials, tools, supervision, and equipment necessary to complete the Work.
2. Contractor acknowledges that the documents included with this Contract Agreement are complete and represent the design intent. As such, the bid total pricing included with this Contract Agreement is firm and reflects the work required for complete reroofing and associated work in accordance with the intent of the Contract Documents and is not subject to change.
3. The specific items included as part of this scope of work are listed for emphasis only and are not intended to limit the scope of work in any way.
4. The Work of this contract is hereby further clarified and defined. In accordance with the nature of this contract, this clarification does not relieve the Contractor from providing all elements of a complete system that conforms to the requirements of the Contract Documents. It is the Contractor's responsibility, based on their expertise and knowledge of the work, to include all items, materials, and procedures necessary to complete the execution of the work that, although not shown, can be reasonably inferred to be a part of the work.
5. Contractor is responsible to supply and install all work in accordance with all applicable codes and manufacturer and industry standards.
6. Contractor's price includes:
  - a) All taxes associated with this scope of work;
  - b) All salaried and field personnel required to complete the work;
  - c) All permits required for this work (City building permit fees will be waived); and
  - d) Contractor acknowledges that multiple mobilizations may be required and has accounted for all costs in the lump sum price.
7. Contractor is responsible for all material handling required to perform this scope of work.

8. Contractor shall coordinate delivery of material with the Project Schedule and the City. Contractor shall properly store all materials and equipment per the manufacturer's recommendations in the event that materials or equipment are delivered prematurely.
9. Contractor is responsible for all field measurements required to complete all installations.
10. Contractor shall be responsible for complying with all applicable safety requirements for its workers and others.

**E. Coordination**

The Contractor shall coordinate all work with the Construction Manager and Facility Managers. The intent is for the work at each facility to be completed in a manner to minimize the amount of time the facility is closed to patrons. It is the responsibility of the Contractor to coordinate the work as to eliminate or minimize any delay, obstruction, disruption, or interference to businesses surrounding each facility. Work shall be coordinated by:

Nick Klarman, Construction Manager, (251) 652-5060, nklarman@orangebeachal.gov

**F. Storage of Materials**

All equipment and materials may be stored only at the location(s) approved by the City. It is expressly noted that no payments will be made for materials stored off-site.

**G. Disposal of Materials**

Any waste and excess materials shall be disposed of by the Contractor in a safe manner conforming to all Federal and State Occupational and Environmental Laws and Regulations including, but not limited to, the Occupational Safety and Health Act (OSHA), the Clean Air Act (CAA), the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Toxic Substances Control Act (TSCA), and the Alabama Department of Environmental Management (ADEM) Regulations.

**H. Contractor Experience**

Contractor shall have a minimum of three (3) years of experience with commercial roofing. Three (3) references with contact information shall be provided for projects similar in size and scope.

Contractor shall also include its history of mediation/arbitration/litigation on any City of Orange Beach projects or projects with any State, County, or City Governmental agencies.



# **INSTRUCTIONS TO BIDDERS & GENERAL CONDITIONS (PUBLIC WORKS PROJECTS)**

## **1.0 INTRODUCTION**

All bidders will be bound to the general conditions and requirements set forth in these general instructions and such instructions shall form an integral part of each purchase contract awarded by the Orange Beach City Council. Applicability of general conditions as stated below shall be determined by the City of Orange Beach. All bids must be submitted on and in accordance with the instructions provided by the City of Orange Beach.

## **2.0 BID DOCUMENTS**

A complete set of Bid Documents is included herein. The date, time, and place of a bid opening will be given in the Invitation to bidders. Copies of the complete set of Bid Documents may be inspected and/or obtained at the following location:

Orange Beach City Hall  
4099 Orange Beach Boulevard  
Orange Beach, AL 36561

Or downloaded from the City's website:  
[www.orangebeachal.gov](http://www.orangebeachal.gov), see "Bids"

## **3.0 EXAMINATION OF DOCUMENTS AND PROJECT SITE**

- 3.1 Carefully examine the Bid Documents, Specifications, Plans/Drawings, and the Work Site.
- 3.2 Bids shall include all costs required to execute the work under the existing conditions.
- 3.3 Extra payments will not be made for conditions which can be determined by examining the documents and the site.

## **4.0 INTERPRETATIONS AND ADDENDA**

- 4.1 Should a bidder find discrepancies, ambiguities, or omissions in the Specifications, or should he/she be in doubt as to their meaning, he/she shall immediately notify the Procurement Officer (Renee Eberly at 251-981-6806 or [reberly@orangebeachal.gov](mailto:reberly@orangebeachal.gov)).
- 4.2 The Procurement Officer will issue Addenda to clarify discrepancies, ambiguities, or omissions in the Specifications.
- 4.3 Addenda will be posted on the City's website at: [www.orangebeachal.gov](http://www.orangebeachal.gov)
- 4.4 Addenda shall become part of the bid and all bidders must acknowledge receipt of Addenda on their Bid Form or their bid will be rejected. Bidders shall be bound by all Addenda.
- 4.5 The City is not responsible for any oral instructions.

## **5.0 PREPARATION OF BID**

- 5.1 The bid must be submitted on the Bid Form furnished. All information required by the Bid Documents must be given to constitute a complete bid.
- 5.2 The Bidder must print, in figures, without interlineations, alterations, or erasures, a Unit Price. The Bidder shall then print the total sum on the line designated as "Bid Total." The City will check the total sum printed by the Bidder, and, in case of error or discrepancy, the unit price shall prevail and the total shall be corrected.
- 5.3 Prices and all information must be legible. Illegible or vague bids may be rejected.
- 5.4 All signatures must be written. Facsimile, printed, or typewritten signatures are not acceptable.

- 5.5 Under penalty of perjury, the Bidder certifies by signature on the Bid Form that:
- The bid has been arrived at by the Bidder independently and has been submitted without collusion with any other vendor of materials, supplies, equipment, or services for the type described in the Invitation to Bid; and
  - The contents of the bid have not been communicated by the Bidder; nor to his/her best knowledge and belief by any of his/her employees or agents to any person not an employee or agent of the Bidder or its surety on any bond furnished herewith prior to the official opening of the bid.

## **6.0 DELIVERY AND SUBMISSION OF BID**

- 6.1 Each bid shall be placed, together with the Bid Bond, if applicable, in a sealed envelope. Bid envelopes must be clearly marked "SEALED BID," the Bidder's name, the title of the bid, and the opening date and time.
- 6.2 All bids received after the time stated in the Invitation to Bid will not be considered and will be returned unopened to the Bidder. The Bidder assumes risk of delay in the mail. Whether sent by mail or by means of personal delivery, the bidder assumes responsibility for having bids deposited on time at the place specified.
- 6.3 The submission of a bid will be construed to mean that the Bidder is fully informed as to the extent and character of the supplies, materials, or equipment required, and as a representation that the bidder can furnish the supplies, materials, or equipment satisfactorily in complete compliance with the specifications.

## **7.0 MODIFICATIONS AND WITHDRAWALS OF BIDS**

- 7.1 No alteration, erasure, or addition is to be made in the typewritten or printed matter. Deviations from the specifications must be set forth in the space provided in bid or by attached sheets for this purpose.
- 7.2 Bids may not be modified after submittal.
- 7.3 Bidder may withdraw his/her bid, either personally or by written request, at any time prior to the scheduled bid opening time.
- 7.4 No bidder may withdraw his/her bid for a period of thirty (30) days after the bid opening.

## **8.0 RIGHT TO REJECT BID**

Bids may be rejected if they contain any omissions, alterations of form, additions not called for, conditional bids, alternate bids unless requested by the City, incomplete bids, erasures, or irregularities of any kind. Bids in which the Unit or Lump Sum prices are obviously unbalanced may be rejected. The City reserves the right to reject any and all bids for any reason and to waive any informality or irregularity in the bids received.

## **9.0 BASIS OF AWARD**

- 9.1 The City will award a single contract, dependent on the availability of funds.
- 9.2 The contract will be awarded to the lowest responsive qualified contractor, subject to the City's right to reject any or all bids and to waive informality and irregularity in bids and bidding.
- 9.3 The City shall have the right to accept alternates in any order or combination, unless otherwise specifically provided in the bid documents, and to determine the low bidder on the basis of the sum of the base bid and alternates accepted.

## **10.0 ENGINEER RECOMMENDATIONS**

All bids for technical products or services in conjunction with ongoing or new construction system projects shall be approved for specification compliance by the City's Project Engineer and a designated representative of the City of Orange Beach. No bid shall be awarded without first hearing the recommendation of the City's Project Engineer.

## **11.0 SAMPLE OF MATERIALS**

Sample of items, when required, must be furnished free of expense to the City and, if not destroyed, will upon request be returned at the bidder's expense.

## **12.0 PRE-QUALIFICATION OF CONTRACTORS**

Each Bidder shall be prepared, if requested by the City, to present evidence of its experience, qualifications, and financial ability to carry out the terms of the Contract. The City reserves the right to disqualify any bidder who, in the sole judgement of the City, fails to adequately demonstrate qualifications and experience sufficient to enable that bidder to successfully complete the scope of work under this Contract.

## **13.0 EXECUTION OF CONTRACT**

13.1 Within ten (10) days of Notice of Award, the Contractor shall deliver to the City proof of insurance as required by Contract Documents. All proof of insurance shall be approved by the City before the Contractor may proceed with Work.

13.2 The Contractor shall commence work within ten (10) days following receipt of the Notice to Proceed or on a date stipulated in the authorization to proceed.

## **14.0 LAWS AND REGULATIONS**

The Contractor's attention is directed to the fact that all applicable State laws, Municipal Ordinances, and the Rules and Regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full.

## **15.0 ALABAMA LICENSE CONTRACTOR**

All Contractors submitting bids in excess of Fifty Thousand Dollars (\$50,000.00) must be licensed contractors in the State of Alabama and must state their License Number on their Bid Form. Contracts less than Fifty Thousand Dollars (\$50,000.00) will not require a General Contractor's License; however, all other requirements shall remain the same.

## **16.0 BUSINESS LICENSE**

The successful bidder shall be required to obtain a City of Orange Beach Business License in order to operate within the Corporate Limits.

## **17.0 BUILDING PERMITS**

The successful bidder shall be required to comply with all building permit procedures and requirements. Building permit fees for this project shall be waived.

## **18.0 BID BOND**

All bids in excess of Fifty Thousand Dollars (\$50,000.00) shall require a bid bond equal to 5% of the contract amount or \$10,000, whichever is lesser. Bid bonds will be returned by the City after the contract has been awarded.

## **19.0 PERFORMANCE BOND**

If the winning bid is in excess of Fifty Thousand Dollars (\$50,000.00), the Contractor shall obtain a performance bond equal to 100% of the contract amount and shall provide such bond within ten (10) days of Notice of Award.

## **20.0 LABOR & MATERIALS BOND**

If the winning bid is in excess of Fifty Thousand Dollars (\$50,000.00), the Contractor shall obtain a Labor & Materials Payment Bond equal to but not less than 50% of the contract amount and shall provide such bond within ten (10) days of Notice of Award. The bond shall include payment of reasonable attorney's fees incurred by successful claimants in civil actions.

## **21.0 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. Contractor also agrees to undertake the obligation to insure that all subcontractors abide by these same insurance requirements.

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.

### ***Commercial General Liability***

Contractor agrees to maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence, \$2,000,000 Annual Aggregate. Contractor agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Cross Liability.

### ***Business Automobile Liability***

Contractor agrees to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned, and Hired Automobiles.

### ***Contractor's Pollution Legal Liability***

Contractor agrees to maintain Contractor's Pollution Legal Liability at a limit of liability not less than \$1,000,000 Each Occurrence, \$2,000,000 Annual Aggregate. The Contractor agrees the policy 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.

### ***Inland Marine Builder's Risk Insurance***

The Contractor, prior to notice to proceed or commencement of Work, whichever occurs first, agrees to maintain an Inland Marine Builder's Risk Insurance Coverage Form providing coverage to protect the interest of the City, Contractor, subcontractors, and property on or off-premises, which shall become part of the Work.

Coverage shall be written on a Replacement Cost, and Completed Value Form basis in an amount at least equal to one hundred percent (100%) of the ultimate projected completed value of the Work. This policy shall also include Delay Cost coverage for soft costs, which shall at a minimum include additional expenses for interest, legal, consulting, insurance, architectural and engineering, Contractor's overhead and general conditions, and equipment rental. The period of indemnity shall not be less than twelve (12) months and the limit of Delay Cost coverage not be less than ten percent (10%) of the projected completed value of the Work and shall be a scheduled limit on the policy in addition to a scheduled limit for the hard cost coverage. The waiting period for Delay Cost coverage may not exceed thirty (30) days. Collectively, the scheduled soft cost limit and hard cost limit may equal one hundred percent (100%) of the projected value

of the Work, unless the builder's risk carrier requires the Delay Cost coverage to be in addition to the one hundred percent (100%) projected value of the Work.

The Contractor agrees to endorse the Inland Marine Builder's Risk insurance with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by City. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the City's interest in the building ceases, or the building is accepted or insured by the City.

#### ***Worker's Compensation & Employer's Liability***

Regardless of any "minimum requirements" of the State of Alabama, Contractor shall obtain Worker's Compensation insurance covering **all** workers involved in the Work. (Note: Elective exemptions or coverage through an employee leasing arrangement will violate this requirement.) Subcontractor shall also obtain Employer's Liability insurance with minimum limits of \$500,000 Each Accident, \$500,000 Disease Policy Limit, and \$500,000 Each Employee.

#### ***Commercial Umbrella/Excess Liability***

Contractor agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than \$1,000,000 Each Occurrence, \$1,000,000 Aggregate. The Contractor agrees to endorse the City as an "Additional Insured" on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the City is automatically defined as an Additional Protected Person.

#### ***Additional Insured Endorsements***

The Contractor agrees to endorse the City as an Additional Insured on the Commercial General Liability with the following Additional Insured endorsement, or similar endorsement providing equal or broader Additional Insured coverage than:

- CG2010 10 01 – Additional Insured; Owners, Lessees, or Contractors, OR
- CG2010 07 04 – Additional Insured; Owners, Lessees, or Contractors; Scheduled Person or Organization endorsement

The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Orange Beach."

#### ***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.

### ***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.

### ***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 Umbrella/Excess Liability and Commercial General 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 Orange Beach  
                              Attn: City Clerk  
                              P.O. Box 458  
                              Orange Beach, AL 36561  
                              Fax (251) 981-1442

## **22.0 COMPLETION DATE**

- 22.1 The Contractor shall commence the work within ten (10) days from the date of receipt of the Notice to Proceed, and shall complete the work within twenty-one (21) calendar days as directed by the Construction Manager. Work at each individual facility shall be completed within seven (7) days as directed by the Construction Manager in order to minimize disruption to facility usage.
- 22.2 The completion date shall not be extended except for unavoidable delays caused by, but not limited to, fires, floods, storms, strikes, accidents, or other circumstances beyond the Contractor's control. The Contractor may request additional completion time within one week from the occurrence of the delay. The City shall be the sole judge of such "unavoidable delays," and the extent thereof. In the event that such a determination is made, the date of completion shall be extended by a length of time equal to that lost by such circumstances. The City shall not be liable to the Contractor for any damages or additional compensation as a consequence of any delay, hindrance, interference, or other similar event beyond the City's control. Failure by the Contractor to notify the City within one week from the occurrence of delay will constitute a forfeiture of any potential time extension.

## **23.0 LIQUIDATED DAMAGES**

- 23.1 Deduction at the rate of Three Hundred Dollars (\$300.00) per day shall be made from the total Contract price for each and every calendar day beyond the twenty-one (21) days from the date of Notice to Proceed that the work remains not satisfactorily completed.
- 23.2 The above mentioned sum shall be deducted as Liquidated Damages. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor

shall pay them to the City without limiting the City's right to terminate this agreement for default as provided elsewhere herein.

**24.0 DEFAULT OF CONTRACTOR**

In cases of default of the contractor, the City may procure the Work from other sources and hold the contractor responsible for any excess cost occasioned thereby.

**25.0 PAYMENT**

The Bidder may submit an Application for Payment for provided labor and materials in accordance with the accepted Unit Prices. Payment shall be made to the Bidder within thirty (30) days of receipt and approval of Application for Payment.

## **ADDITIONAL TERMS RELATING TO PURCHASES WITH FEDERAL GRANT AWARDS**

### **1. FEDERAL GRANT FUNDING**

This procurement may be funded in whole or part with federal grant funds. 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.

### **2. LOCAL VENDOR PREFERENCE**

No local vendor preference will be considered or granted in evaluating bids which are funded in whole or part by federal grant awards.

### **3. NON-DEBARMENT CERTIFICATION**

Bidder certifies that the bidder and/or any of its subcontractors or principals have not been debarred, suspended, or declared ineligible by any agency of the Federal government or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch. I Subpart 9.4.

### **4. REMEDY FOR NON-PERFORMANCE / TERMINATION OF CONTRACT**

#### **a. Immediate Termination**

This bid award is subject to the appropriation and availability of City funding. The bid award will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted, or funds are de-appropriated such that the City cannot fulfill its obligations under the bid, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the bid award for any one or more of the following reasons effective immediately without advance notice:

- i) In the event the bidder or bid awardee ("Contractor") is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the bid award effective as of the date on which the license or certification is no longer in effect;
- ii) The City determines that the actions, or failure to act, of the Contractor, its agents, employees, or subcontractors have caused, or reasonably could cause, life, health, or safety to be jeopardized; and/or
- iii) The City determines that the Contractor furnished any statement, representation, or certification in connection with the bidding or bid award process which is materially false, deceptive, incorrect, or incomplete.

#### **b. Termination for Cause**

The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligation under the bid award:

#### **c. Notice of Default**

If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- i) Immediately terminate the bid award without additional written notice;
- ii) Procure substitute goods or services from another source and charge the difference between the bid award price and the substitute price to the defaulting Contractor; and/or
- iii) Enforce the terms and conditions of the bid award and seek any legal or equitable remedies.

#### **d. Termination upon Notice**



Following thirty (30) days' written notice, the City may terminate the bid award in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for goods and services provided under the bid to the City up to and including date of termination.

e. Payment Limitation in Event of Termination

In the event of termination of the bid award for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor for goods and services actually rendered up to and including the date of termination of the bid award and for which the City is obligated to pay pursuant to the bid award. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City in the event of termination.

f. Owner May Terminate for Convenience

Upon seven days written notice to the Contractor, the City may, without cause and without prejudice to any other right or remedy of the City, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

- i) Completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
- ii) Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
- iii) Other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal; and
- iv) Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

g. Termination Duties

Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- i) Cease work under the bid award and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the bid award, including, without limitation, results accomplished, conclusions resulting there from, and any other matters the City may require;
- ii) Immediately cease using and return to the City any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- iii) Comply with the City's instructions for the timely transfer of any active files and work product by the Contractor under the bid award;
- iv) Cooperate in good faith with the City, its employees, agents, and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
- v) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

**5. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE REQUIREMENT**

- a. Contractor shall comply with all Federal, State and local laws concerning nondiscrimination.
- b. During the performance of this contract, the Contractor agrees as follows:

- i) 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, 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.

- ii) 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.
- iii) 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.
- iv) The Contractor will send to each labor union or representative of workers with which it 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.
- v) 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.
- vi) 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.
- vii) In the event of the Contractor's non-compliance 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.

- viii) The Contractor will include 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 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.

**6. ENERGY POLICY AND CONSERVATION ACT STATEMENT**

Contractor will 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 (Public Law 94-163, 89 Stat.871).

**7. CLEAN AIR ACT / FEDERAL WATER POLLUTION CONTROL ACT**

Contractor will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. (Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.) Bidder certifies that none of the facilities it uses to produce goods provided under the contract are on the Environmental Protection Authority (EPA) List of Violating Facilities. Contractor will immediately notify the City of the receipt of any communication indicating that any of Contractor's facilities are under consideration to be listed on the EPA List of Violating Facilities.

**8. DAVIS-BACON ACT**

Contractor will comply with the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

**9. COPELAND "ANTI-KICKBACK" ACT**

The Contractor will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair.)

**10. ANTI-LOBBYING CERTIFICATION**

- a. 2 CFR 200 - Appendix II, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards" is hereby incorporated by reference into this certification.
- b. The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief that:
  - i) No 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 on his or her behalf 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;
  - ii) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 on his or her behalf in connection

with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer;

- iii) Contractor will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 shall certify and disclose accordingly; and
- iv) This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Section 1352, Title 31, United States Code. Any person making expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

**11. BEASON-HAMMON CLAUSE**

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

**12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), where applicable. (Contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5)).

**13. ENERGY POLICY AND CONSERVATION ACT**

If applicable, the Contractor shall comply with the 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 (42 U.S.C. 6201).

**14. DEBARMENT AND SUSPENSION**

All contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

**15. REQUIREMENTS**

All contractual requirements of the NRDA Restoration Program Funds are to be included in the contract as required including, but not limited to the following provisions:

- a. Required Federal-Aid Contract Provision
- b. The Beason-Hammon Contract Clause
- c. Termination for Cause / Breach of Contract Clause
- d. Termination of Convenience Clause
- e. Audits and Inspection, Access to Records, and Three-Year Records Retention Clause
- f. Title VI, Civil Rights of Act of 1964 Clause
- g. Conflict of Interest Clause
- h. Section 504 Rehabilitation Act of 1973 Clause
- i. Age Discrimination Act of 1975 Clause
- j. Executive Order 11246 and Equal Opportunity Clause

## **REQUIREMENTS FOR CONTRACTS AND PURCHASES**

Effective January 1, 2012 under the “Beason-Hammon Alabama Taxpayer and Citizen Protection Act,” Act No. 2011-535, Alabama Code (1975) Section 31-13-1, Et Seq., before entering into a contract with the City to:

1. Perform a service;
2. Perform work;
3. Provide a product;
4. Accept a grant; and/or
5. Accept an initiative

The State of Alabama requires the business entity to sign a notarized affidavit agreeing:

1. Not to knowingly employ, hire for employment, or continue to employ, any unauthorized aliens in the State of Alabama;
2. To enroll in the E-Verify Program, to verify the immigration status of every employee required to be re-verified through that system and to provide documentation of its enrollment; and
3. To require its subcontractors to comply with the above requirements.

Before any contract can be let, purchase can be made, or payment can be issued by the City of Orange Beach after January 1, 2012, the Affidavit on the reverse side of this document must be completed, notarized, and returned to our offices.

Note: Proof of enrollment in the E-Verify Program must accompany the Affidavit, unless you do not have or hire any employees.

Questions about this process may be directed to Renee Eberly, City Clerk/Procurement Officer, at (251) 981-6806 or via e-mail at [reberly@orangebeachal.gov](mailto:reberly@orangebeachal.gov).

**COMPLETED AFFIDAVIT MUST BE RETURNED IN SEALED BID.**

**AFFIDAVIT OF CONTRACTOR OR DIRECT VENDOR**

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

County of \_\_\_\_\_

Before me, a notary public, personally appeared \_\_\_\_\_ (print name) who, being duly sworn, says as follows:

As a condition for the award of any contract, grant, or incentive by the City of Orange Beach, Alabama, I hereby attest that in my capacity as \_\_\_\_\_ (state position) for \_\_\_\_\_ (state business entity/employer/contractor name) that said business entity/employer/contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

I further attest that said business entity/employer/contractor is enrolled in the E-Verify program.

**(Attach documentation establishing that business entity/employer/contractor is enrolled in the E-Verify Program.)**

\_\_\_\_\_  
Signature of Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

\_\_\_\_\_  
Signature and Seal of Notary Public

My Commission Expires: \_\_\_\_\_

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS:

THAT \_\_\_\_\_  
(Name of Contractor/Principal)

\_\_\_\_\_, as Principal,  
(Address)

and \_\_\_\_\_  
(Name of Surety)

of \_\_\_\_\_, as Surety,  
(Address)

are held and firmly bound unto **the City of Orange Beach**, as obligee, in the full and just sum of:

\_\_\_\_\_ lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal is herewith submitting its bid for:

**HURRICANE SALLY ROOFING REPAIRS**

The condition of this obligation is such that, if the aforesaid Principal shall be awarded the Contract, the said Principal will, within the time required, enter into a formal Contract, and give a good and sufficient bond to secure the performance of the terms and conditions of the Contract, then this obligation to be void; otherwise, the Principal and the Surety will pay unto the full amount of said bond. If no other bids are received, the full amount of the proposal guarantee shall be so retained or recovered as liquidated damages for such default.

SIGNED, SEALED AND DELIVERED \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Surety (Seal)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Bids will not be considered unless Bid Bond is signed by Principal and Surety,  
or in lieu thereof, a certified check must accompany the bid.

**NOTICE OF AWARD (SAMPLE)**

DATED:

TO:

PROJECT: **HURRICANE SALLY ROOFING REPAIRS**

You have been awarded a contract for **HURRICANE SALLY ROOFING REPAIRS**.

Within ten (10) days of the date of this Notice of Award, you must deliver to the City the enclosed contract documents, fully executed, signed and witnessed, and a Certificate of Insurance as follows:

- 2 originals Contract
- 1 original Performance Bond
- 1 original Labor and Material Bond
- 1 original Certificate of Insurance certifying compliance with all insurance requirements as specified in the General Conditions
- 1 copy Alabama General Contractors License
- 1 copy Orange Beach Business License

Please contact Timeka Cunningham in the Finance Department at (251) 981-6782 for more information regarding the Business License.

Within ten (10) days after receipt of the above documents, the City will return to you one (1) fully signed original of the Contract.

You will be notified of the time and place for a preconstruction conference; your proposed work schedule must be delivered to the City at that time.

Failure to deliver the aforementioned contract documents and insurance certificate within the time specified will entitle the City to consider your bid abandoned, to annul this Notice of Award, and to declare your Bid Bond forfeited.

**CITY OF ORANGE BEACH**

By: \_\_\_\_\_  
Renee Eberly, City Clerk/Procurement Officer





**PERFORMANCE BOND (SAMPLE)**

KNOW ALL MEN:

That we \_\_\_\_\_, hereinafter called the Principal,  
(Insert here the name and address or legal title of the Contractor)

\_\_\_\_\_, hereinafter called the Surety,  
(Insert here the name and address or legal title of the Surety)

are held and firmly bound unto the Owner in the sum of \_\_\_\_\_  
(\$\_\_\_\_\_) for the payment whereof the Principal and the Surety bind themselves, their heirs, executors,  
administrators, successors and assigns, jointly and severally, firmly, by these presents.

WHEREAS, the Principal has, by means of a written agreement dated \_\_\_\_\_ entered  
into a Contract with the Owner for \_\_\_\_\_ which agreement is by reference made  
a part hereof.

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

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

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

City of  
**Orange Beach**  
A L A B A M A  
*Life is better here*

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

Attest:

\_\_\_\_\_  
\_\_\_\_\_

(Corporate Principal Sign Here)

\_\_\_\_\_  
By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
\_\_\_\_\_

(Surety Sign Here)

\_\_\_\_\_  
By: \_\_\_\_\_

COUNTERSIGNED:

\_\_\_\_\_  
By: \_\_\_\_\_

**LABOR AND MATERIALS BOND (SAMPLE)**

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

WHEREAS, the Principal has entered into a certain Contract with said Obligee dated \_\_\_\_\_,  
hereinafter called the Contract, for \_\_\_\_\_ and the specifications for said work  
shall be deemed a part hereof as fully as if set out herein.

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

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

- (a) Any person, firm or corporation that has furnished labor, materials, or supplies for or in the prosecution of the work provided for in said Contract shall have a direct right to action against the Principal and Surety on this bond, which right of action shall be asserted in a proceeding, instituted in the County in which the work provided for in said Contract is to be performed or in any County in which said Principal or Surety does business. Such right of action shall be asserted in a proceeding instituted in the name of the claimant or claimants for his or their use and benefit against the Principal and Surety or either of them, but not later than one (1) year after the final settlement of said Contract falls due, in which action such claim or claims shall be adjusted and judgement rendered thereon.
- (b) The Principal and Surety hereby designate and appoint \_\_\_\_\_, or his successor or representative as the agent of each of them to receive and accept services of process or other pleading issued, or filed in any proceeding instituted on this bond and hereby consent that such service shall be the same as personal service on the Principal and/or Surety.
- (c) The Surety shall not be liable hereunder for any damages or compensation recoverable under Workmen's Compensation or Employer's Liability Statute.

City of  
**Orange Beach**  
A L A B A M A  
*Life is better here*

- (d) In no event shall the Surety be liable for a greater sum than the penalty of this bond, or subject to any suit, action or proceeding thereon that is instituted later than one (1) year after the final settlement of said Contract.
- (e) This bond is given pursuant to the terms of an Act of the Legislature of the State of Alabama approved February 8, 1935, entitled, "An Act to further provide for Bonds and Contractors on State and other public works and suits thereon."
- (f) The full name and residence of each individual party to the bond must be inserted in the first paragraph.
- (g) If the Principal is a partnership, the full name of all partners must be inserted in the first paragraph which must recite that they are the partners composing the partnership (to be named) and all partners must execute the bond as individuals.
- (h) The State of Incorporation of each corporate party to bond must be inserted in the first paragraph and the bond must be executed under the Corporate Seal of each party attested by its secretary or other appropriate officer.
- (i) The date of the bond must not be prior to the date of the Contract.

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

Attest:

(Corporate Principal Sign Here)

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

By: \_\_\_\_\_

Attest:

(Surety Sign Here)

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

By: \_\_\_\_\_

**CONTRACT (SAMPLE)**

THIS AGREEMENT, made and entered into the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between \_\_\_\_\_, hereinafter called the Contractor, and the **City of Orange Beach, Alabama**, and/or its assigns, hereinafter called the Owner.

WITNESSETH:

That the Contractor, for the consideration hereinafter set out, hereby agrees with the Owner as follows:

1. That the Contractor shall perform all of the work in a satisfactory manner in accordance with the plans, specifications, bid requirements and conditions, which are attached hereto and made a part hereof as if fully contained herein, for **HURRICANE SALLY ROOFING REPAIRS**.
2. That the Contractor shall commence the work to be performed under this agreement within the Contract Time as defined in the *General Conditions*.

All work shall be accomplished with quality in a manner which will maintain safety to life and property, and reduce to a minimum any interference with abutting property or public travel. All work shall be inspected and approved by the City Construction Manager or his designee as Owner's representatives before payment shall be made.

3. The Owner hereby agrees to pay to the Contractor for satisfactory performance of the agreement, subject to additions and deductions as provided in the contractual documents, in lawful money of the United States as follows:

\_\_\_\_\_.

4. Estimates of work completed shall be made by the Contractor each month and submitted to the Owner. Within thirty (30) calendar days after submittal by the Contractor, the owner shall make partial payments to the Contractor on the basis of the estimate of work, duly certified and approved by the City Construction Manager, and performed during the preceding calendar month by the Contractor, less two and a half percent (2.5%) of the amount of such estimate which is to be retained by the owner until all work (100%) has been satisfactorily completed in accordance with this agreement.
5. Upon substantial completion and inspection of all work covered by this agreement, payment of the Contract sum shall be made within thirty (30) calendar days, less retainage.

Said retainage shall be retained until: 1) Submission by the Contractor of evidence satisfactory to the Owner that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full including a Waiver and Release of Lien on the form included in the Contract Documents; 2) Legal notice of advertisement of completion has been advertised four (4) consecutive weeks in some newspaper of general circulation in Baldwin County, Alabama, as approved by

City of  
**Orange Beach**  
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the Owner; 3) Final inspection by the City Construction Manager or his designee and final acceptance of the work by the Owner.

- 6. It is mutually agreed between the Owner and the Contractor that timely performance is of the essence to this Contract, and the Contractor agrees to keep a working force on the job of the size that is adequate to perform all work in accordance with the Contractor’s approved work schedule.
- 7. The Contractor hereby agrees to warrant that all material and workmanship is of the quality, quantity, and character specified and shown, and that any faulty materials or workmanship made known to him within one (1) year after date of final certificate of payment shall be made good by him without additional expense to the Owner.

Failure to complete the work within the allotted Contract time will cause loss to the Owner in administrative, engineering, inspection, interest, and supervision charges. Therefore, any overrun in the Contract time, which in the opinion of the City Contract Manager is caused by undue delay, shall be charged to the Contractor at \$300.00 per day and deducted from the final payment as liquidate damages.

- 8. The Owner reserves the right to terminate the contract upon written notice to the Contractor at least five (5) days prior to said termination. In the event that the Contract is terminated, the Contractor will be compensated in accordance with the bid items of the Contract and its attachment for all approved work in place.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and date first above written in two (2) counterparts, each of which shall, without proof or accounting for the other counterpart, be deemed an original contract.

(Corporate Seal) \_\_\_\_\_ **(Contractor)**

By: \_\_\_\_\_

Its \_\_\_\_\_

Attest: \_\_\_\_\_

Its \_\_\_\_\_

(Seal) **City of Orange Beach, Alabama (Owner)**

By: \_\_\_\_\_

Tony Kennon, Mayor

Attest: \_\_\_\_\_

Renee Eberly, City Clerk



**NOTICE TO PROCEED (SAMPLE)**

DATED:

TO:

PROJECT: **HURRICANE SALLY ROOFING REPAIRS**

You are hereby notified to commence work in accordance with the Agreement dated \_\_\_\_\_, 2020, on or before \_\_\_\_\_, 2020.

**City of Orange Beach, Alabama (Owner)**

By: \_\_\_\_\_

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

By: \_\_\_\_\_

**WAIVER AND RELEASE OF LIEN (SAMPLE)**

FROM:

TO: City of Orange Beach, Alabama (Owner)

PROJECT: **HURRICANE SALLY ROOFING REPAIRS**

KNOW ALL MEN BY THESE PRESENTS:

1. The undersigned, having been employed by the **City of Orange Beach** to furnish labor and/or materials for the referenced project, does hereby waive and release any and all lien and claim or right to lien and claim against the **City of Orange Beach** on the referenced project on account of labor, services, equipment, materials, etc. furnished for the referenced project.
2. The undersigned further certifies that to the best of his knowledge and belief, there are no unsatisfied or outstanding claims of any character arising out of the furnishing of labor, equipment, services, and/or materials for the referenced project.
3. The undersigned further agree that, after execution of this document, it will indemnify, defend at its expense, and save the **City of Orange Beach** harmless from any and all claims or liens arising out of the undersigned's furnishing of labor, equipment, services, and/or materials for the referenced project.
4. The undersigned has executed this document in order to induce the **City of Orange Beach** to make final payment to and in no way acts as a release of any claim the undersigned may have against parties other than the **City of Orange Beach** arising out of the furnishing of labor and/or materials for the referenced project.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this \_\_\_\_ day of \_\_\_\_\_, 2020.

STATE OF ALABAMA  
COUNTY OF BALDWIN

Personally appeared before me the undersigned Notary Public in and for said County and State, \_\_\_\_\_, who is known to me and who, after being duly sworn, deposes and says that the facts stated in the above affidavit are true.

\_\_\_\_\_  
NOTARY PUBLIC