

CONTRACTUAL DOCUMENTS, GENERAL CONDITIONS,
SPECIAL PROVISIONS AND TECHNICAL SPECIFICATIONS

FOR

SPORTSPLEX FENCING

CITY OF ORANGE BEACH, ALABAMA



SEPTEMBER 2018

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PUBLIC NOTICE

INVITATION TO BID

Sealed bids will be received, opened, and read aloud in public session for **SPORTSPLEX FENCING** for the **CITY OF ORANGE BEACH, ALABAMA**, at **11:00 A.M. on Thursday, August 30, 2018**, at the City Hall Municipal Complex located at 4099 Orange Beach Blvd., Highway 161, Orange Beach, Alabama. This contract is for the purpose of retaining a qualified general contractor for materials and installation of fencing at the Orange Beach Sportsplex. Qualified general contractors holding a current Alabama state license are invited to bid.

The Contractor will be required to obtain a business license from the City to operate within the Corporate Limits.

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.

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 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. 2018-0832

INVITATION TO BID DATE: August 16, 2018

BID TITLE: Sportsplex Fencing

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

BIDS MUST BE RECEIVED BEFORE: August 30, 2018 at 11:00 A.M. (Central)

BIDS WILL BE PUBLICLY OPENED: August 30, 2018 at 11:00 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 Tim Tucker, Public Works Director at 251-757-1599/ttucker@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 SPECIFICATIONS

A. Owner

The Owner for this contract is the City of Orange Beach, Alabama. The mailing address for the Owner is Post Office Box 458, Orange Beach, Alabama 36561.

B. Project Description

The purpose of this contract is for materials and installation of fencing at the Orange Beach Sportsplex located at 4389 William Silvers Parkway.

C. Work Schedule

After contract award, the Contractor shall coordinate the work schedule with the Public Works Director. Any modifications to the work schedule shall be first approved by the Public Works Director.

D. Coordination

The Contractor shall coordinate all work with the Public Works Director and designated City Staff. The intent is for the work at the Sportsplex to be completed in a manner to minimize disturbance for 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 the Sportsplex.

E. Local License Requirement

Attention is called to the fact that all companies performing work on this Contract must obtain a Business License from the City of Orange Beach. Please contact the Orange Beach Finance Department at (251) 981-6096 for more information.

F. Site Inspection

Bidders are strongly encouraged to visit the project location. There is no pre-bid conference for this project.

G. Scope of Work

1. Contractor is responsible to provide complete materials and installation of fencing at the Orange Beach Sportsplex in this scope of work, including all labor, materials, tools, supervision, and equipment necessary to complete the Work.
2. Work is generally described as fencing for four (4) fields and eight (8) dugouts, with two (2) double gates per field, two (2) single gates per field, and one (1) ½-gate per dugout. Contractors shall reference the attached drawings and confirm all measurements at the worksite prior to bidding. Bid pricing offered shall be firm.
3. Contractor shall refer to Sheets 5 and 6 of the attached Sportsplex Improvements Plans for detailed specifications.
4. 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 fence construction and associated work in accordance with the intent of the Contract Documents and is not subject to change.
5. 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.
6. 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.

7. Contractor is responsible to supply and install all work in accordance with all applicable codes and manufacturer and industry standards.
8. 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; and
 - d. Contractor acknowledges that multiple mobilizations may be required and has accounted for all costs in the lump sum price.
9. Contractor is responsible for all material handling required to perform this scope of work.
10. City shall set fence posts in the block fill for the dugouts only. The Contractor shall supply the fence posts to the City.
11. 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.
12. Contractor is responsible for all field measurements required to complete all installations.
13. Contractor is responsible for all layout required to complete all installations.

H. 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.

I. 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.

BID FORM – SPORTSPLEX FENCING

LUMP SUM to complete all fencing as specified.
 Contractor to purchase and install all products.

\$ _____

Days to Complete

Warranty Description: _____

Warranties shall be provided in writing and shall specify any and all exclusions, including products and services. If such warranties are provided at additional cost, the incremental cost must be so specified. The procedure necessary to notify such warranty must be specified. Any additional charges relating to the utilization of the warranty provided must be specified.

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: _____

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

 Company Representative

 Street Address

 Title

 City, State, Zip

 Phone

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

 Email

 Alabama Contractors License No.

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.

SWORN TO AND SUBSCRIBED
 BEFORE ME THIS DAY OF

_____, 20_____.

 Notary Public

 Commission Expires

 Company Name

 Mail Address

 City, State, Zip

 Phone Including Area Code

 Authorized Signature (INK)

 Typed Authorized Name

 Title

 Fax Number

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, see "Bids"

3.0 EXAMINATION OF DOCUMENTS AND PROJECT SITE

- 3.1 Carefully examine the Bid Documents, Specifications, 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).
- 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
- 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 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.

11.0 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.

12.0 EXECUTION OF CONTRACT

12.1 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.

12.2 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.

13.0 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.

14.0 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.

15.0 BUSINESS LICENSE

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

16.0 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.

17.0 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.

18.0 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.

19.0 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.

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."

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

20.0 COMPLETION DATE

- 20.1 Unless otherwise specified by the City, 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 sixty (60) calendar days from the date of receipt of the Notice to Proceed.
- 20.2 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.

21.0 LIQUIDATED DAMAGES

21.1 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 thirty (30) days from the date of Notice to Proceed that the work remains not satisfactorily completed.

21.2 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.

22.0 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.

23.0 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.

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.

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:

SPORTSPLEX FENCING

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: **SPORTSPLEX FENCING**

You have been awarded a contract for **SPORTSPLEX FENCING**.

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 Letter from Bonding Company certifying that Performance and Labor and Material Bonds will be provided in the event a Notice to Proceed is issued
- 1 original Certificate of Insurance certifying compliance with all insurance requirements as specified in the General Conditions

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

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.

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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.

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- (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 _____, 2018, 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 **SPORTSPLEX FENCING**.
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 Public Works Director 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's Public Works Director, 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
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the Owner; 3) Final inspection by the City Public Works Director 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 \$500.00 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: **SPORTSPLEX FENCING**

You are hereby notified to commence work in accordance with the Agreement dated _____,
2018, on or before _____, 20_____.

City of Orange Beach, Alabama (Owner)

By: _____
Tony Kennon, Mayor

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this _____ day of _____, 20_____.

(Contractor)

By: _____

WAIVER AND RELEASE OF LIEN (SAMPLE)

FROM:

TO: City of Orange Beach, Alabama (Owner)

PROJECT: **SPORTSPLEX FENCING**

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 _____, 20____.

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

My commission expires: _____