

CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
P-100 CITY HALL
BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265/FAX: (205) 254-2484

AISHA JOHNSON, SENIOR BUYER
CARMEN JONES, PURCHASING AGENT

FEBRUARY 15, 2024
ITB: 24-29

| | |
|---|---|
| TO: | Prospective Bidders |
| INVITATION TO BID NUMBER: | Bid #24-29 (A complete copy can be downloaded at www.birminghamal.gov) |
| SEPARATE SEALED BIDS FOR: | RECYCLING SERVICES FOR RECOVERED MATERIALS |
| INVITATION TO BID RESPONSES WILL BE RECEIVED BY: | Aisha Johnson, Senior Buyer Purchasing Division 710 North 20 th Street, P-100 City Hall Birmingham, AL 35203-2227 |

*****IMPORTANT SOLICITATION DATES*****

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|---|---|
| BID DUE DATE: | BID OPENING DATE: |
| Wednesday, March 6, 2024 by 5:00 P.M. (Central Standard Time) | Thursday, March 7, 2024 at 11:00 A.M. (Central Standard Time) |

Bidders wishing to bid can download the complete solicitation including the specifications and bid forms via the internet at www.birminghamal.gov (go to link titled Work, then click on Bidding Opportunities), or by visiting the Purchasing Office at the address shown above, or by calling (205) 254-2265 and requesting a copy be mailed to you.

BID OPENING WILL BE HELD AT:
Purchasing Division
710 North 20th Street
P-100 City Hall
Birmingham, AL 35203-2227

TELEPHONE INQUIRIES – NOT ACCEPTED

Telephone inquiries with questions regarding clarification of any and all specifications of the ITB will not be accepted. All questions **must** be e-mailed to Aisha Johnson at aisha.johnson@birminghamal.gov.

Submissions may be withdrawn, modified, and resubmitted prior to the formal bid opening due date. **Any submission modification(s) submitted after the “Bid Due Date” may not be considered.**

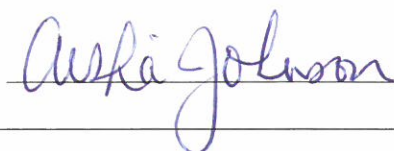

The City of Birmingham reserves the right to accept or reject any or all bids, or any part of any bid, and to waive any informalities or irregularities in the bid. The City of Birmingham may award contract in whole or in part based on the needs of the City of Birmingham.

All costs incurred by the company to respond to this solicitation will be wholly the responsibility of the Bidder. All copies and contents of the bid, attachments, and explanations thereto submitted in response to this ITB, except copyrighted material, shall become the property of the City of Birmingham regardless of the bidder selected. Response to this solicitation does not constitute an agreement between the Bidder and the City of Birmingham.

The City of Birmingham is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City of Birmingham or any other means of delivery employed by the bidder. Similarly, the City of Birmingham is not responsible for, and will not open, any bid responses which are received later than the date and time indicated above. Late bid responses will be retained in the bid file, unopened.

Published-Alabama Messenger-02/17/2024

RELEASED BY:

**CITY OF BIRMINGHAM-PURCHASING DIVISION
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INVITATION TO BID

Sealed bids marked “**Recycling Services for Recovered Materials**”, will be received by the Purchasing Agent, P-100 First Floor City Hall, 710 North 20th Street, Birmingham, Alabama 35203.

Bids will be accepted until 5:00 P.M. central time (standard or daylight savings time, as applicable) on **WEDNESDAY, MARCH 6, 2024**. **Bids submitted after these dates and times will not be considered.**

Bids will be publicly opened at 11:00 A.M. on THURSDAY, MARCH 7, 2024.

The City has resumed having public bid openings and if you plan to attend in person, we ask that you wear a mask. You may also participate virtually via WebEx. Login information can be found on the City’s website at www.birminghamal.gov (click on the link titled **Work** then click on **Bidding Opportunities**).

The City is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City, or any other means of delivery employed by the Bidder. Similarly, the City is not responsible for, and will not open, any bid/proposal responses, which are received later than the date and time, indicated above. Late bids/proposals will be retained in the bid/proposal file, unopened.

TERM OF CONTRACT

Any contract resulting from this ITB will become effective upon bid award and execution of the contract documents. Per Section 3-3-7(7) of the Birmingham City Code and State Bid Law, the proposed contract shall be in effect for a maximum period of three (3) years, with a minimum of one (1) year guaranteed, contingent upon Council approval. The life of this contract shall exist with the approval of both parties with the provision that no price increase in the original bid prices shall be allowed.

ADDENDA

Any addenda will be available on the internet. Bidder is responsible for checking the website for addenda until the bid opening date. Addenda will be mailed to only those vendors who were provided a copy in person or by mail.

CERTIFIED CHECK/BID BOND/CASHIER’S CHECK

It is required for any contract exceeding \$10,000.00 that the bidder submits with his bid a certified check, a cashier’s check, or a bid bond payable to the City of Birmingham. In order for any bid award to be considered that exceeds \$10,000.00, your bid must be accompanied by an acceptable bid bond or check in the amount of \$500.00. Bid bond checks will be returned to all unsuccessful bidders after the formal award is made and to the successful bidder after acceptance of award. Should the successful bidder fail to accept the award, the bid bond check shall be forfeited.

The City follows a policy of nondiscrimination. No contractor with the City should discriminate on the basis of race, sex, religion or national origin. Failure by the Vendor to carry out these requirements is a material breach of its obligations, which may result in its termination or such other remedy as the City deems appropriate.

No bid may be withdrawn for a period of sixty (60) days after the date of the bid opening. All bids are to be submitted on the bid form provided and all bids are to be f.o.b. Birmingham, Alabama delivered. The City reserves the right to reject any or all bids submitted, in whole or part, and to waive any informalities.

Bids must be submitted in a sealed envelope marked “**Bid #24-29 Recycling Services for Recovered Materials, 5:00 P.M., 03/06/2024.**” Bids may be **hand delivered** to Purchasing, Room P-100 First Floor, City Hall, Birmingham, Alabama or **mailed** to City of Birmingham, 710 North 20th Street, Birmingham, AL 35203. Bids mailed in (i.e. USPS, Federal Express, UPS, Airborne, etc.) **must** specify delivery to Room P-100, 1st Floor-City Hall.


Carmen Jones, Purchasing Agent

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**FEBRUARY 15, 2024
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INVITATION TO BID – cont'd

GENERAL

The successful bidder shall receive recyclables collected by City of Birmingham trucks at a bidder-operated Recovered Materials Processing Facility on Monday through Friday during the hours of 7:00am through 4:30pm. Then the bidder shall process comingled, single-stream recyclable materials including aluminum and steel cans, baled and loose cardboard, newspaper, office and mixed paper, and plastics #1 and #2. All recyclable materials are to be processed according to applicable local, state and federal regulations.

Bidders are required to provide an original and two (2) copies of their bid.

CANCELLATION

The City reserves the right to cancel the contract, in whole or part, and seek new bids at any time the City determines that the services, item(s) and/or product lines(s) being supplied is/are failing to perform satisfactorily. Any bid that imposes a service fee or any other type of fee on any order not exceeding a minimum order quantity or minimum purchase order dollar amount, will be determined a non-responsive bid and will not be considered for award. Municipalities are not liable for sales tax: reference Code of Alabama Section 40-23-4. Costs normally considered pass through costs (property tax, use tax, delivery charge, etc.) to the customer by the provider must be included in any fee proposed (Code of Alabama 40-12-222). For the purchase of personal property, the City's policy is to apply a local preference option, as allowed by the State of Alabama Code, Section 41-16-50, in determining the low bidder. The contract shall become effective from the date noted in the Notification of Award letter which will be mailed to the successful bidder.

PURCHASE ORDERS

The City will issue purchase order(s) to the successful bidder for the goods and/or services (bid items) that are the subject of the bid. Unless otherwise agreed in a writing that is signed by both parties, the entire agreement between the City and the successful bidder concerning the bid items is comprised of the terms, conditions, specifications and requirements stated in (a) the contemplated purchase order(s), (b) this Invitation to Bid and Specifications and (c) your bid (collectively, the "Contract Requirements"). These writings supersede all former proposals, offers, negotiations, representations or agreements, either written or oral, concerning the provision of vendor's goods and/or services. By acceptance of the City's purchase order(s), the successful vendor agrees to abide by and perform its responsibilities related to the bid items in compliance with the Contract Requirements.

Successful bidder shall not assign this contract to any other party without prior written approval of the City of Birmingham. Contract shall not be assigned to an unsuccessful bidder who was rejected because he was not a responsive or responsible bidder.

TERMINATION OF CONTRACT

Failure to adhere to any or all terms, conditions and specifications as set forth in the contract may result in the immediate termination of the contract. Should termination occur, the holder of the contract may be declared a "non-responsive vendor" This declaration may result in the rejection of any future bids submitted by the vendor for a period of time to be determined by the City.

All bids submitted are to be F.O.B. delivered, City of Birmingham, Birmingham AL 35203.

PRICES

Include transportation (including fuel surcharge, if applicable)

QUANTITIES

The quantities shown on the bid form are estimated quantities only. Merchandise shall be ordered as requirements dictate. The City reserves the right to purchase more or less than this quantity as conditions require and no bidder shall attempt to hold the quantities shown as a firm quantity under this contract.

PRE-PAYMENTS

No prepayments of any kind will be made prior to shipment.

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INVITATION TO BID – cont'd

TAX

The City of Birmingham is exempt from all Federal Tax, and sales and use tax, except Alabama tax on oils, lubricants and fuels specifically bought for over-the-road transportation use.

ADDITIONAL PURCHASES

The City has attempted to list all items for “**Recycling Services for Recovered Materials**” required during the term of the contract, if mutually agreed upon, additional contracts may be executed, based upon this bid for the same item(s) or related types and/or sizes.

REDUCTION IN COST

Bidder agrees that the City of Birmingham will be charged no more for item(s) bid than the State of Alabama, and that in the event of a price reduction; the City will receive the benefit of such reduction on any undelivered portion of contract.

Successful bidder acknowledges and agrees that the City has the right to deduct from total amount of consideration to be paid, if any, to the successful bidder under this agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties, and other amounts due the City from the successful bidder.

NON-DISCRIMINATION POLICY

Vendor (and its employees, agents and any subcontractors) shall not discriminate on the basis of race, color, sex, gender identity, sexual orientation, disability, familial status, or national origin in the performance of the services contemplated hereunder. Failure by the bidder to carry out these requirements is a material breach of its obligations which may result in its termination or such other remedy as the City deems appropriate.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Vendor acknowledges and agrees that consistent with federal law and City’s public policy, it will encourage disadvantaged business enterprise (DBE) participation to the extent permitted by law. A “disadvantaged business enterprise” is a for-profit small business concern (i) at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and (ii) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In accordance with federal law, a “socially and economically disadvantaged individual” includes African-Americans, Hispanic Americans, Native Americans, Asian-Americans, women, and any additional groups designated as socially and economically disadvantaged by the federal Small Business Administration.

FORM W-9

Any successful bidder who is not currently set up as a vendor in the City of Birmingham vendor file will be required to submit a completed W-9 tax form prior to any award. The W-9 tax form may be submitted with your bid or no later than seven (7) working days of receipt of notice of intent to award.

BUSINESS LICENSE

The City of Birmingham must have a copy of the successful bidder’s current City of Birmingham business license prior to formal award of contract. A copy of his/her license may be submitted along with his/her bid. In the event you receive a notification of intent to award letter, bidder must provide a copy of his/her current business license no later than seven (7) working days of receipt. Failure to submit the requested information will result in the notice of intent to award being revoked.

PUBLIC DISCLOSURE

Subject to applicable law or regulations, the content of each Bidder’s Proposal shall become public information upon the effective date of any resulting contract.

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INVITATION TO BID – cont'd

TELEGRAPHIC/ELECTRONIC BID RESPONSES

Proposal responses sent by electronic devices (i.e., facsimile machines and email) are not acceptable and will be rejected upon receipt. Vendors will be expected to allow adequate time for delivery of their bid responses either by airfreight, postal services, or by other means.

NON-RESPONSIVE BIDDER

Three (3) failures by a vendor in a twelve (12) month period to complete awarded projects within the stated completion time frame will force the City to determine the vendor to be a non-responsible vendor, and that vendor will not have future bids considered for a period of twelve (12) months.

E-VERIFY

Successful Vendor (located in the State of Alabama or located outside of the State of Alabama, but employs one or more employees within the State of Alabama) represents and warrants that it does not knowingly employ, hire for employment, or continue to employ an "unauthorized alien", as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535 (H.B.56) of the Alabama Legislature, as amended from time to time (the "Act") and that, during the performance of this contract, Vendor shall participate in the E-Verify program as required under the term of the Act. Vendor agrees to comply with all applicable provisions of the Act. As a condition for the award of any contract, Vendor shall provide documentation establishing that the Vendor is enrolled in the E-Verify program, or a signed, written statement that the Vendor does not have a presence (one or more employees) in the State of Alabama. Vendor may submit applicable documentation with his/her bid or no later than seven (7) working days of receipt of notice of intent to award.

Bids may be solicited for the product included in this contract where an immediate/emergency need exists including large quantities. The decision of the Purchasing Agent as to what constitutes a biddable situation shall be final and shall not be construed as a breach of contract.

QUESTIONS

Any questions concerning these specifications should be addressed to Purchasing Division, Aisha Johnson, phone (205) 254-2267, fax, (205) 254-2484, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

SINGLE BID

If a single bid response is received for this ITB, the City reserves the option to award or negotiate for a lower price with the rejected Bidder and other Bidders by means of sealed quotes, upon department approval. The rejected Bidder's initial offer will not be disclosed to other Bidders, prior to the awarding of a contract. The award will be made to the company offering the lowest negotiated quotation, provided that all conditions and specifications required by the City are met.

NEGOTIATIONS

The City of Birmingham reserves the right to enter into contract negotiations with the selected Bidder. If the City and the selected Bidder cannot negotiate a successful contract, the City may terminate negotiations and begin negotiation with the next selected Bidder. This process will continue until a contract has been executed or all proposals have been rejected. No Bidder shall have any rights against the City arising from such negotiations.

PROHIBITION AGAINST BOYCOTTING

By signing this contract, the Contractor certifies that it is not currently engaged in, and for the duration of this agreement will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state enjoys open trade.

AWARD

Contract will be awarded to the lowest most responsive and responsible bidder who meets all bid requirements and has a history of successfully completing like work.

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INVITATION TO BID – cont'd

GOVERNING LAW/DISPUTE RESOLUTION

Contract award to purchase the materials covered in this bid document shall be construed under and governed by the laws of the State of Alabama and each party hereto irrevocably agrees to be subject to the jurisdictions of the courts of the State of Alabama.

PAYMENT TERMS

The City's standard payment term is Net-30 days from acceptance. Exception may be allowed for discounted early payment, such as 2%-10, Net 30 Days. The reference date for all such discounted early payment terms will be the date the invoice is received or the date the goods are received, whichever is later. In the event of a dispute the City's records shall prevail. **The City will not consider any bids requiring C.O.D. payments.**

STATEMENT OF COMPLIANCE WITH ALABAMA CODE SECTION 31-13-9

Vendor shall participate in the E-Verify program as required under the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Vendor agrees to comply with all applicable provisions of the Act. As a condition for the award of any contract, Vendor shall provide documentation establishing that the Vendor is enrolled in the E-Verify program, or a signed, written statement that the Vendor does not have a presence (one or more employees) in the State of Alabama. Vendor may submit applicable documentation with his/her bid or no later than seven (7) working days of receipt of notice of intent to award.

HOLD HARMLESS AND INDEMNIFICATION

Vendor(s) shall defend, indemnify, and hold harmless the City of Birmingham, and its agents, employees and officials (hereinafter the "Indemnitees") from and against all demands, actions, damages, judgments, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs), losses, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property) (collectively hereinafter "Claims") by any third parties (including any employee, subcontractor or representative of the Vendor, hereafter a "Vendor Representative") that arises out of, relates to, results from, or is attributable to any of the following: (a) Vendor's performance or failure to perform its obligations hereunder; (b) any conditions in or about the work sites that the Vendor or any Vendor Representative may encounter; or (c) the use or occupancy of the work sites by Vendor or any Vendor Representatives. This indemnification obligation includes Claims that are caused in part by the negligence of an Indemnitee(s); provided nothing herein shall obligate Vendor to indemnify any of the Indemnitee(s) for Claims resulting from the sole negligence or from the willful misconduct of the Indemnitee(s).

NON-COLLUSION

Contractor covenants and declares that it has not employed any person to solicit or procure this Agreement and that Contractor has not made, and will not make, any payment of any compensation for the procurement of this Agreement. The covenant contained herein shall survive the expiration or earlier termination of this Agreement.

CONFLICT OF INTEREST

Contractor covenants and declares that it has not, and will not, acquire any interest, directly or indirectly, in any property acquired by the City during the term of this Agreement. Contractor warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter that will render the services required under this Agreement a violation of any applicable Federal, State or local law. In the event that any conflict of interest should hereinafter arise, Contractor shall promptly notify the City in writing of the existence of such conflict of interest.

CONFIDENTIALITY

Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of the City information whether deemed confidential or not

BID SAMPLES

Bid samples may be required. Bidder(s) must furnish sample(s) of items bid as noted in each item's specification. Any such samples requested must be made available to the City within five (5) working days or as noted in the item specification.

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INVITATION TO BID – cont'd

GUARANTEE

Bidder certifies by bidding, that he is fully aware of the conditions of service and purpose for which item(s) included in this bid are to purchase, and that his offering will meet these requirements of service and purpose to the satisfaction of the City of Birmingham Finance Purchasing Division and its agent.

LAWS, PERMITS

The bidder's attention is directed to the fact that all applicable state laws, municipal ordinances and rules and regulations of the authorities having jurisdiction over the work to be performed shall apply to the Contract throughout, and they will be deemed to be included in the Contract as though written out in full in the Contract.

INSURANCE REQUIREMENTS

Liability Insurance: For the duration of this contract and for limits not less stated below, the Contractor shall carry (i) general liability insurance (either primary or a combination of primary and umbrella coverage) with limits of not less than \$2,000,000.00 total with a maximum of \$1,000,000.00 for each occurrence and shall include, but not be limited to, personal injury, property damage, vandalism, property loss and theft; (ii) comprehensive automobile liability insurance concerning owned and rented vehicles operated by the Contractor with limits of not less than \$1,000,000.00 bodily injury per occurrence, \$1,000,000.00 property damage or combined single limit of \$1,000,000.00; and (iii) Workman's Compensation coverage in an amount adequate to comply with the statutory requirements. The City's bid number **(24-29)** must appear on any/all copies of the certificate of insurance.

All such insurance shall be provided by a policy or policies issued by a company or companies qualified by law to engage in the insurance business in the State of Alabama with a rating of B+ or better according to the most current edition of Best's Insurance reports. Bidder is to provide written documentation of the company's rating with their bid. The Contractor may use umbrella or excess liability insurance to achieve the required coverages, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of the Contractor herein.

City Additional Named Insured: Except for Worker's Compensation coverage, all coverages shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of the Contractor or the performance of its work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability but shall allow coverage for the City to the fullest extent provided by the policies. Such additional insured coverage shall be at least as broad as Additional Insured endorsement from ISO, CG 2010.1185.

Policies Primary: All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

Waiver of Subrogation: Contractor shall require the carriers of the above-required insurance coverage to waive all rights of subrogation against the City, and its officers, employees, agents, contractors and subcontractors. Further, Contractor hereby waives any rights of subrogation against the City. All general or automotive liability coverage provided herein shall not prohibit the Contractor or its employees, agents or representatives from waiving the right of subrogation prior to loss or claim.

Proof of Coverage: Before the commencement of services or work hereunder, the Contractor shall provide the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. Evidence of insurance will not be accepted on a per event basis. These certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days advance notice to the City. In the event that the City is not notified that any of the coverage required herein is to be cancelled or changed in such a manner as not to comply with the requirements of this Contract, the Contractor shall, within fifteen (15) days prior to the effective date of such cancellation or change, obtain and provide the City with binder(s) of insurance evidencing the re-establishment of the insurance coverage required herein.

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INVITATION TO BID – cont'd

PRICING ESCALATION/DE-ESCALATION

The City of Birmingham may take into consideration an Economic Price Adjustment. All prices offered shall be firm against any increase for twelve (12) months from the effective date of the contract. Sixty (60) days prior to renewal, the City of Birmingham may entertain a request for escalation in accordance with the most recently published consumer price index. The City of Birmingham reserves the right to accept, reject, or negotiate the request for a price increase. If the price increase is approved, the price will remain firm for one (1) year from the date of the increase. This clause also enables the City of Birmingham to seek de-escalation on the same terms.

WARRANTY

Equipment/Parts furnished shall carry the standard warranty offered to the general public. **PLEASE ATTACH A COPY OF YOUR WARRANTY AS PART OF YOUR BID SUBMISSION.**

INVOICING

All invoices must agree with the purchase order in description and price and include the following information:

- 1.) Purchase Order Number
- 2.) Ship to Department Name and Address
- 3.) In order to ensure prompt payment, ALL **ORIGINAL INVOICES*** MUST BE SENT TO:

**CITY OF BIRMINGHAM
DEPARTMENT OF PUBLIC WORK
501 6TH AVENUE SOUTH
BIRMINGHAM, AL 35205**

*If invoice does not agree with purchase order, credits or a corrected invoice will be required in order for the City to process payment. **Invoices that do not reference an authorized Purchase Order will be returned to the vendor.**

THIRD-PARTY "REMIT-TO"

If a Bidder has a third-party "remit-to" company, that information must appear on the Bidders response. The City of Birmingham will send payment to the company designated by the Bidder on its response but will not be responsible for resolving payment issues should the Bidder change payment processing companies after a payment has been mailed or without a 45-day written notification to the Human Resources Department and Accounting division of the City of Birmingham.

UNIQUE ENTITY ID

The federal government has changed from the DUNS Number to the Unique Entity ID which is generated by going to SAM.gov. The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov. As part of this transition, the DUNS Number has been removed from SAM.gov.

(THIS PORTION LEFT BLANK INTENTIONALLY)

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BID FORM

Submitted below is my firm bid for recycling services for recovered materials for the City of Birmingham. Per Section 3-3-7(7) of the General City Code for the City of Birmingham, the proposed contract shall be in effect for a minimum of one (1) year. Upon approval of both parties, the life of this contract shall exist with the provision that no price increase in the original bid prices shall be allowed, in accordance with your Invitation to Bid and Specifications dated February 15, 2024. Prices quoted are f.o.b. Birmingham, AL, and I am bidding in exact accordance with the specifications except as listed below.

| # | DESCRIPTION | UNIT PRICE |
|---|---|--------------|
| 1 | For comingled recyclable material including aluminum and steel cans, baled and loose cardboard, newspaper, office and mixed paper, and plastics #1 and #2 | \$ _____/ton |
| 2 | For contaminated or non-recyclable materials including food waste, hazardous waste and bio-hazardous waste | \$ _____/ton |

NAME OF YOUR COMPANY _____

AISHA JOHNSON, SENIOR BUYER
CARMEN JONES, PURCHASING AGENT

EXCEPTIONS TO SPECIFICATIONS:

[illegible]

NAME OF YOUR COMPANY

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AISHA JOHNSON, SENIOR BUYER
CARMEN JONES, PURCHASING AGENT

FEBRUARY 15, 2024
ITB: 24-29

DEBARMENT STATEMENT

CERTIFICATION REGARDING DEBARMENT, SUSPENSIONS,
AND OTHER RESPONSIBILITY MATTERS

(Executive Order 12549, Debarment and Suspension, 34 CFR Part 85)

Bidder/Offeror certifies to the best of its knowledge and belief, that it and its principals:

- (a) ☐ Are ☐ are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) ☐ Have ☐ have not within a three-year period preceding award of this contract been convicted of or had civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) ☐ Are ☐ are not presently indicted for or otherwise criminally charged by a governmental entity (Federal, State or Local) with commission on any of the offenses enumerated in Paragraph (b) above; and
- (d) ☐ Have ☐ have not within a three-year period preceding award of this contract had one or more public transactions (Federal, State or Local) terminated for cause of default.
- (e) **Unique Entity ID (UEI)**
UEI number must be provided on the signature page of this document before an award can be made to facilitate System Award Management (SAM) certification
<https://www.sam.gov/SAM/>. Companies that do not have a free UEI number may visit
<https://.dnd.com/duns-number/get-a-duns.html> for more information.
The City of Birmingham does not provide UEI numbers.

AUTHORIZED SIGNATURE

TITLE

PRINTED NAME

DATE

_____ I am unable to certify to the above statements. My explanation is attached.

NAME OF YOUR COMPANY _____

**CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
P-100 CITY HALL
BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265/FAX: (205) 254-2484**

**AISHA JOHNSON, SENIOR BUYER
CARMEN JONES, PURCHASING AGENT**

**FEBRUARY 15, 2024
ITB: 24-29**

City of Birmingham Transparency in City Government Disclosure and Certification Form

TRANSPARENCY IN CITY GOVERNMENT DISCLOSURE AND CERTIFICATION FORM

INSTRUCTIONS:

This form must be fully completed by any individual or entity (hereinafter referred to as "Vendor") seeking to enter into a contract or appointment, provide services, obtain funding or otherwise do business with the City of Birmingham with the express exclusion of persons or entities exclusively providing grant funding to the City, General Services Administration (GSA) vendors, national cooperatives approved by the Alabama Department of Examiners of Public Accounts and governmental entities to include City boards and agencies.

Submit completed forms to the appropriate City Department. All questions must be answered. Respond "Not applicable" or "NA" if a question does not apply. Attach additional pages if needed. Completed forms will be submitted to the Birmingham City Council or the appropriate Council Committee along with the Applicant's proposed contract, appointment and/or funding request.

For purposes of this Form, the following definitions apply:

Family Member of a Public Employee. The spouse, domestic partner or a dependent of the public employee.

Family Member of a Public Official. A spouse, domestic partner, dependent, adult child and his or her spouse, parent, spouse's parents, sibling and his or her spouse, of the public official.

Public Employee. Any person employed by the City of Birmingham or its instrumentalities, including governmental corporations and authorities.

Public Official. Any person elected to public office of the City of Birmingham, whether or not that person has taken office, by the vote of the people, and any person appointed to a position at the City of Birmingham or its instrumentalities, including governmental corporations and authorities.

This Form is a:

☐ **New Submission**

☐ **Update to a Previous Submission**

Section 1: VENDOR NAME AND CONTACT:

Vendor's Legal Name:

Physical Street Address:

CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
P-100 CITY HALL
BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265/FAX: (205) 254-2484

AISHA JOHNSON, SENIOR BUYER
CARMEN JONES, PURCHASING AGENT

FEBRUARY 15, 2024
ITB: 24-29

City of Birmingham Transparency in City Government Disclosure and Certification Form

Mailing Address:

Phone Number:

Contact Person:

Section 2: DISCLOSURES

(a) Identify all officers, directors, owners, members, partners and executive management of the Vendor.

(b) (PUBLIC OFFICIAL)

Are any of the persons identified in paragraph (a) above a Family Member of a Public Official of the City of Birmingham or do they have an employment or other business relationship with a Public Official of the City of Birmingham or a Family Member of a Public Official? If "yes", describe any family, employment or business relationship with the Public Official.

☐ Yes ☐ Not Applicable

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City of Birmingham Transparency in City Government Disclosure and Certification Form

(c) (PUBLIC EMPLOYEE)

Are any of the persons identified in paragraph (a) above a Family Member of a Public Employee of the City of Birmingham or do they have an employment or other business relationship with a Public Employee of the City of Birmingham or a Family Member of a Public Employee? If "yes", describe any family, employment or business relationship with the Public Employee.

☐ Yes ☐ Not Applicable

SECTION 3. LOBBYISTS, CONSULTANTS & ATTORNEYS:

During the past three (3) years, has Vendor retained, hired or paid any person or entity including, but not limited to, a lobbyist, consultant or attorney, to assist Vendor in obtaining a City contract, appointment or funding? If "yes", identify by individual name, firm name, address and telephone number any such person or entity.

☐ Yes ☐ Not Applicable

SECTION 4: DISCLOSURE OF CONTRIBUTIONS:

During the past three (3) years, has the Vendor provided a campaign contribution, a contribution to a political action committee that provides funding to a Public Official's campaign or other funding to or performed services for a Public Official, or provided funding to or performed services for an individual or entity, including a charitable entity, at the request of a Public Official or Public Employee? If yes, identify the amount, date and recipient of any campaign contribution or other funding and/or the date, contract amount and nature of services performed.

☐ Yes ☐ Not Applicable

**CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
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City of Birmingham Transparency in City Government Disclosure and Certification Form

SECTION 5: CONTRACTS WITH THE CITY OF BIRMINGHAM:

Does the Vendor have any existing contracts with the City of Birmingham or contracts which have expired or been terminated within the past three (3) years?

☐ Yes ☐ No

SECTION 6: CLAIMS AGAINST THE CITY OF BIRMINGHAM:

Does the Vendor have any pending claims against the City of Birmingham.

☐ Yes ☐ No

SECTION 7: GOOD STANDING:

By signing this *Transparency in City Government Disclosure and Certification Form* Vendor affirms that it is current in regard to all required federal, state, and local business, tax and other filing requirements and licensure.

CERTIFICATION:

I, the undersigned, certify that I am authorized to execute this *Transparency in City Government Disclosure and Certification Form* on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the City of Birmingham is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the City to notify the City in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the City, permitting the City to declare any contract(s) resulting from this certification void and unenforceable.

VENDOR SIGNATURE:

NAME:

DATE:

___/___/____

**CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
P-100 CITY HALL
BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265/FAX: (205) 254-2484**

**AISHA JOHNSON, SENIOR BUYER
CARMEN JONES, PURCHASING AGENT**

**FEBRUARY 15, 2024
ITB: 24-29**

SIGNATURE PAGE

I hereby certify that we do not discriminate in employment of our personnel against any persons on account of race, creed, color, sex, or national origins, and acknowledge and agree that the City encourages minority - and women - owned business participation to the maximum extent possible. This policy includes Historically Underutilized Business Enterprises such as architectural firms, engineering firms, investment banking firms, other professional service providers, and construction contractors as part of the City's business, economic and community revitalization programs.

This page must be returned with bid.

Bidder acknowledges receipt of _____ addenda(s).
(addenda number)

U.E.I.D # _____

Date of Bid

Name (Print legibly or Type)

Company

Title

Street Address

Signature

City State Zip

Tax ID Number

Post Office Box

E-Mail Address

City State Zip

Telephone Number

Terms of Payment

Fax Number

Delivery Date

Cell Phone

IF AVAILABLE, PLEASE SUBMIT COPY OF CURRENT CITY OF BIRMINGHAM BUSINESS LICENSE WITH THIS BID.

INDICATE THE FOLLOWING ADDRESSES IF DIFFERENT FROM ABOVE:

1. BID AWARD NOTICE ADDRESS _____

2. PURCHASE ORDER ADDRESS _____

3. REMITTANCE ADDRESS (and name if different than above) _____

AGREEMENT FOR RECYCLING SERVICES FOR RECOVERED MATERIALS

THIS AGREEMENT FOR RECYCLING SERVICES FOR RECOVERED MATERIALS (hereinafter the "Agreement") is made this ____ day of _____, 2024 and entered into by and between the City of Birmingham, a municipal corporation, (hereinafter referred to as the "City") and, _____ (hereinafter referred to as the "Company").

WHEREAS, in connection with Bid #24-29 (the "Bid"), the City has conducted a competitive bid process to select a Company to provide the services and work specified in that Bid and in this Agreement (collectively, the "Work"); and

WHEREAS, the Company operates a Recovered Materials Processing Facility, as defined in Section 22-27-2 of the Code of Alabama and is being awarded the right to perform the services and work contemplated in the Bid.

NOW WITNESSETH, in consideration of the mutual covenants and benefits herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

TERMS: The Company agrees to perform the Work as specified in the Bid and set forth in this Agreement. In the event of a conflict between any term, specification or provision in the Bid materials and those in this Agreement, the provisions in this Agreement shall control and govern. The Bid specifications and provisions in this Agreement may collectively hereinafter be referenced as the "Agreement." At its expense, the Company will provide all labor, materials and equipment required to perform the Work. The Company warrants that it will perform the Work in a good and workmanlike manner. Unless terminated sooner as provided herein, the term of this Agreement shall commence on the first day of the month following its execution by both parties and shall extend for a maximum term of three (3) years (the "Term"), including a minimum period of one (1) year after that date. The initial one (1) year period and any extended period may be collectively referenced herein as the ("Agreement"). This Agreement may not be extended more than twenty-four (24) months after the expiration of the initial one (1) year period. During any extended period, the prices and other provisions and conditions in the Agreement will continue to apply. Either party may terminate this Agreement during the extended period by providing advance written notice to the other thirty (30) days prior to the designated time for termination.

TERMINATION:

(a) **Termination for Cause:** If Company fails to perform a material obligation under the Agreement and does not remedy that deficiency within thirty (30) days following written notice thereof from the City (a "Default"), the City may terminate this Agreement effective on the date stated in its notice to terminate. City's right to terminate for Company's breach is non-exclusive, and does not bar the City from pursuing its other available remedies that arise from such breach;

(b) **Termination for Convenience:** Irrespective of any default hereunder, either party may also, at any time in their discretion, terminate this Agreement, in whole or in part, by giving the other party thirty (30) days written notice thereof and in such event, Company shall be entitled to receive compensation specified herein for all work completed prior to such thirty (30) days' notice of termination or cancellation, delivered or not yet delivered to the City. Company shall also be entitled to compensation for all subsequent work requested by the City and delivered by Company, after notice of termination. For any work partially completed at the date of termination, such work will be compensated on a prorated basis, as mutually agreed upon.

INDEMNIFICATION/INSURANCE:

(a) **Indemnification:** The Company agrees to defend, indemnify, and hold harmless the City of Birmingham, and its agents, employees and officials (hereinafter the "Indemnitees") from and against from and against all demands, actions, damages, judgments, expenses (including, but not limited to, attorneys' fees, expert fees, court costs and other litigation costs), losses, damages, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property, or those for financial loss or damages) (collectively herein "Claim(s)") by any third parties (including any employee, sub-contractor or representative of the Company, hereafter a "Company Representative") that arise out of, relate to, result from, or are attributable to any of the following: (a) any conditions in or about the City-owned properties or Work sites that the Company or any Company Representative may enter or encounter in performing their services or Work; (b) the use or occupancy of City-owned properties and Work sites by the Company or any Company Representatives; and (c) any act, omission or conduct by the Company or any Company Representative that arises from or relates to its (or their) performance or failure to perform its (or their) responsibilities and Work under this Agreement; provided that the Company's indemnification obligation to the City under this provision shall not exceed the amount of the limits of the general liability and automobile insurance policies set forth herein. This indemnification obligation includes Claims by third parties that are caused in part by the negligence of an Indemnatee; provided, nothing herein shall obligate the Company to indemnify any of the Indemnitees for Claims resulting from the sole negligence or from the willful misconduct of the Indemnitees.

(a) **Insurance:** For the duration of the Agreement and for limits not less than stated below, the Company shall maintain the following insurance with a company or companies lawfully authorized to do business in Alabama and reasonably acceptable to the City:

(i) **Commercial General Liability:** Two Million Dollars (\$2,000,000.00) for each occurrence and shall include, but not be limited to, personal injury, property damage, vandalism, property loss and theft; and

(ii) **Comprehensive Automobile Liability:** Covering owned and rented vehicles operated by the Company with policy limits of not less than One Million Dollars (\$1,000,000.00) bodily injury per occurrence, One Million Dollars (\$1,000,000.00) property damage or per occurrence; and

(iii) **Workers Compensation:** Workers' Compensation and Employers Liability as required by statute.

The Company may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.

Before the execution of the Agreement, the Company shall provide the City a certificate(s) of insurance evidencing compliance with the requirements in this section. The certificates shall name the City, and its officials and employees, as additional insureds on the Comprehensive General Liability, Automobile Liability, and any applicable umbrella and excess policies.

All such insurance coverage shall be provided by a policy or policies insured by company or companies qualified by law to engage in the insurance business in the State of Alabama, with a rating of **B+** or better according to the most current edition of Best's Insurance Reports, which said policy or policies shall be approved by the Director of Finance of the City and filed with the City Clerk. The Company shall cause a certificate or certificates of insurance to be furnished, in duplicate, to the City evidencing such insurance coverage. The City's bid number shall appear on any/all copies of the certificate of insurance.

Such insurance policies shall contain an endorsement providing the City will be given not less than thirty (30) day notice in writing prior to the cancellation or change of coverage provided by said policies. In the event the City is notified that any of the coverage required herein is to be canceled or changed in such a manner as not to comply with the requirements of this agreement, the Company shall, within fifteen (15) days prior to the effective date of such cancellation or change, obtain and provide the City with certificates evidencing the re-establishment of the insurance coverage required hereby.

SAFETY AT WORK SITES: The Company warrants that, before performing the Work contemplated hereunder, it will inspect the sites where Work is completed. The Company further warrants that, before performing the Work, it will identify any condition or hazard that it considers will prevent it from performing the Work in a manner that does not endanger persons or property. The Company is exclusively responsible for performing the Work in a safe manner that does not put a risk the safety of persons (including its own employees or representatives) or endanger property. The Company shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (i) all its employees and all other persons who may be affected by the services; (ii) all the services and all materials and equipment to be incorporated therein, whether in storage on or off the Work sites, or under the care, custody or control of the Company or any of its sub-contractors; and (iii) other property at the Work sites or adjacent thereto. The Company further agrees to comply with all provisions and requirements set forth in applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction over safety of persons or property or to protect them from damage, injury or loss.

NON-DISCRIMINATION: During the performance of this contract the Company agrees as follows:

(a) The Company will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Company 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, gender identity, sexual orientation, disability, familial status, 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 Company agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) In the event of the Company's noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole or in part and the Company may be declared ineligible for further municipal contracts.

HISTORICALLY UNDERUTILIZED BUSINESS ENTERPRISES: Company acknowledges that the City, as a matter of public policy and to the extent allowed under applicable law, encourages participation of minority-owned, women owned and disadvantaged business enterprises to the maximum extent possible and seeks to provide opportunities for and to actively include Disadvantaged Business Enterprises (DBEs) and Historically Underutilized Business Enterprises (HUBE's) which includes architectural firms, engineering firms, investment banking firms, other professional service providers, and construction contractors as part of the City's business, economic and community revitalization programs. Company agrees to comply with this policy, and to include and retain those firms, contractors and consultants as sub-contractors or participants in other capacities to assist Company to complete the Work.

OFFSET FOR OVERDUE FEES, TAXES, ETC. Pursuant to Executive Order of the Mayor of Birmingham No. 76-09 (effective as of August 21, 2009), Company acknowledges and agrees that the City has the right to deduct from the total amount of consideration to be paid, if any, to Company under this Agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties and other amounts due the City from Company.

PROHIBITION AGAINST BOYCOTTING: By signing this Agreement the Company certifies that it is not currently engaged in, and for the duration of this Agreement will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state enjoys open trade.

NON-COLLUSION: Company covenants and declares that it has not employed any person to solicit or procure this Agreement and that Company has not made, and will not make, any payment of any compensation for the procurement of this Agreement. The covenant contained herein shall survive the expiration or earlier termination of this Agreement.

CONFLICT OF INTEREST: Company covenants and declares that it has not, and will not, acquire any interest, directly or indirectly, in any property acquired by the City during the term of this Agreement. Company warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter that will render the services required under this Agreement a violation of any applicable Federal, State or local law. In the event that any conflict of interest should hereinafter arise, Company shall promptly notify the City in writing of the existence of such conflict of interest.

CONFIDENTIALITY: Company agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. Company shall exercise reasonable precautions to prevent the unauthorized disclosure and use of the City information whether deemed confidential or not.

WORK SPECIFICATIONS/RATES/PAYMENT FOR WORK: Company agrees to perform the Work pursuant to the specifications in the Bid and set forth below:

(a) The Company must furnish satisfactory evidence to the City that it has been continuously engaged in the business of operating a Recovered Materials Processing Facility for at least the preceding five (5) years, that it will be able to maintain operations and comply with the general specifications referred to hereinafter under all conditions, and that the bidder has all licenses and permits required to allow it to operate a Recovered Materials Processing Facility.

(b) The Company shall be required to demonstrate to the satisfaction of the City that they have adequate financial resources, experienced personnel, equipment and expertise to perform the services required. No Agreement will be awarded to any bidder who, as determined by the City, has an unsatisfactory performance record or inadequate experience or who lacks the necessary capital, organization, personnel and equipment to conduct and complete the collection, hauling and disposal services in strict accordance with the specifications.

(c) The Company shall comply with all applicable laws, rules, regulations and ordinances, including, without limitation, solid waste legislation of the State of Alabama, the rules and regulations of the Jefferson County Health Department, the Alabama Department of Environmental Management and the United States Environmental Protection Agency, and they will be deemed to be included in the Agreement as though written out in full in the Agreement.

(d) The Company shall receive and process comingled, single-stream recyclable materials collected by the City of Birmingham at a Company operated Recovered Materials Processing Facility weekly. The Company shall receive City trucks on Monday through Friday during the hours of 7:00am through 4:30pm. All recyclable materials are to be processed according to applicable local, state and federal regulations.

(e) The Company agrees that it will furnish prompt service to the City of Birmingham for the purpose of receiving and processing comingled, single-stream recyclable materials at a Company operated Recovered Materials Processing Facility at the rate of \$_____/ton for comingled recyclable material including aluminum and steel cans, baled and loose cardboard, newspaper, office and mixed paper, and plastics #1 and #2; and \$_____/ton for contaminated or non-recyclable materials including food waste, hazardous waste, and bio-hazardous waste.

(f) Payments by the City to the Company for Work under this Agreement shall be made within thirty (30) days of receipt of properly itemized invoices for such services rendered by the Company during the previous month. Invoices shall detail the date and tonnage of City collected clean and contaminated recyclable materials received by the Company for processing each month.

AGREEMENT REPRESENTATIVES: Each party shall appoint a representative who shall coordinate with the other party on all matters pertinent to the performance of the Work and administration of this Agreement (the "Agreement Representative").

The City's Agreement Representative is:

City of Birmingham
710 North 20th Street
Purchasing Department
Birmingham, Alabama 35203
Phone: (205) 254-2265

with a copy to:

City of Birmingham
710 North 20th Street, Room 600
Office of the City Attorney
Birmingham, Alabama 35203
Phone: (205) 254-2369
Attn: Nicole King

The Company's Agreement Representative is:

_____, Alabama, 35_____
Phone: (205) _____
Email: _____
Attn: _____

The Agreement Representative designated above shall have the authority to act on behalf of its organization to transmit instructions and receive information. Either party may designate a Contract Representative other than the person named above upon provision of written notice to the other.

Any notice required hereunder shall be sufficiently given when sent to the Agreement Representatives via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.

MISCELLANEOUS PROVISIONS:

(a) Before commencing the Work, the Company, at its own expense, will obtain all licenses, permits or other governmental authorizations needed to complete the Work, including without limitation, a business license issued by the City (collectively, "Licensing"). The Company further agrees to maintain that Licensing throughout the performance of its Work.

(b) With respect to any goods, materials or products furnished by the Company to the City, the Company warrants that it owns, is licensed or has the right to supply all such products, including all intellectual rights attendant thereto. To the fullest extent permitted by law, the Company shall defend, indemnify, and hold harmless the City (and its representatives) from and against all actions, damages, judgments, losses, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs) and claims for patent, copyright or other infringement of intellectual property rights arising out of, related to, or resulting from the Company's breach of this warranty.

(c) The Company is an independent Company of the City. This Agreement does not create any partnership, joint venture or principal-agent relationship between the City and the Company. Further, the City retains no control or authority with respect to its means and methods in which the Company (or any of its employees or representatives) performs the Work.

(d) The Company shall not assign this Agreement, or any of its rights, obligations or the benefits hereunder, to any other party without prior written approval of the City, which approval may be withheld for any reason. In no event shall this Agreement be assigned to an unsuccessful bidder who was rejected because he was not a responsible or responsive bidder.

(e) The Agreement is made only for the benefit of the City and the Company. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.

(f) If the Company conducts business through a corporation, limited liability corporation, or other similar organization, it makes the following representations and warranties as additional inducements to the City for it to enter the Agreement:

- (i) The Company is a duly organized and existing entity that is authorized to perform business under the laws of the State of Alabama and has the power to enter into and to perform and observe its agreements and covenants in the Agreement.
- (ii) All actions required to be taken by or on behalf of the Company to execute the Agreement, and to perform its covenants, obligations and agreements hereunder, have been duly taken. Those actions may include a resolution duly adopted by its governing body and copies of such resolutions shall be provided to the City.
- (iii) The execution and performance of the Agreement by the Company do not constitute and will not cause the breach or violation of any Agreement, lease, franchise, permit or agreement of any nature to which the Company is a party.

(g) The Company warrants and certifies that it has not employed or retained any firm, entity or person to solicit or secure its selection to enter into this Agreement, and that it has not paid or agreed to pay any fee, commission, percentage, gift or other consideration to any such firm, entity or person that is contingent upon or resulting from the award or making of this Agreement. The City, at its sole discretion, may terminate the Agreement without liability if the Company violates this warranty.

(h) The Agreement and the specifications in the Bid represent the entire agreement between the parties. The terms herein supersede all prior negotiations, representations or agreements, either written or oral, concerning the subjects herein, and any such negotiation concerning those matters is merged into this Agreement. This Agreement may be amended only by written instrument signed by both parties.

(i) This Agreement may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. An electronic or facsimile copy of the executed Agreement or counterpart shall be deemed and shall have the same legal force and effect as, an original document.

(j) Any forbearance or delay on the part of the City in enforcing any of its rights under this Agreement shall not be construed as a waiver of such rights. No terms of this Agreement shall be waived unless expressly waived in writing.

(k) If any provision of this Agreement is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of it shall remain in full force and effect.

(l) **“Buy Local”:** The Company agrees that in connection with any portion of the Work, it will make commercially reasonable efforts to buy and/or lease supplies, materials and equipment from vendors located within the corporate limits of the City of Birmingham.

(m) **Local Hiring:** The Company agrees to make, and cause to its sub-contractors, if any, to make commercially reasonable efforts to hire residents of the City of Birmingham to fill available positions with respect to the Work.

(n) Immigration Act Compliance: (a) Company represents and warrants that it does not knowingly employ, hire for employment, or continue to employ, in Alabama, an “unauthorized alien,” as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, §31-131, *et seq.*, Code of Alabama 1975, as amended (the “Act”). (b) Company represents and warrants that it will enroll in the E-Verify program prior to performing any work on the project in Alabama and shall provide documentation establishing that Company is enrolled in the E-Verify program. During the performance of this Agreement, Company shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations. (c) Company agrees to comply with all applicable provisions of the Act with respect to its sub-contractors by entering into an agreement with or by obtaining an affidavit from such sub-contractors providing work for Company on the Project in Alabama that such sub-contractors are in compliance with the Act with respect to their participation in the E-Verify program. Company represents and warrants that Company shall not hire, retain or Agreement with any sub-contractors to work on the Project in Alabama which Company knows is not in compliance with the Act. (d) By signing this 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.

(Signature Page Follows on Next Page)

IN WITNESS WHEREOF, the aforesaid parties have hereunto set their signature on the _____ day of _____, 2024.

CITY OF BIRMINGHAM

BY: _____
Randall L. Woodfin, Mayor

DATE: _____

ATTEST:

City Clerk

COMPANY:

BY: _____

ITS: _____
(Official Title)

DATE: _____

APPROVED AS TO FORM BY LAW DEPARTMENT:

Assistant City Attorney / Date