

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

MELINDA CUNNINGHAM, SENIOR BUYER
EDWARD WILLIAMS, ASST. PURCHASING AGENT

AUGUST 9, 2024
ITB: 25-12

TO:	Prospective Bidders
INVITATION TO BID NUMBER:	Bid #25-12 (A complete copy can be downloaded at www.birminghamal.gov)
SEPARATE SEALED BIDS FOR:	Ambulance Stretcher Fastener Maintenance
INVITATION TO BID RESPONSES WILL BE RECEIVED BY:	MELINDA CUNNINGHAM, Senior Buyer Purchasing Division 710 North 20 th Street, P-100 City Hall Birmingham, AL 35203-2227

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

BID DUE DATE:	BID OPENING DATE:
Friday, August 30, 2024 by 5:00 P.M. (Central Standard Time)	Monday, September 2, 2024 at 10:00 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 Melinda Cunningham at melinda.cunningham@birminghamal.gov.

Submissions may be withdrawn, modified, and resubmitted prior to the formal bid due date.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

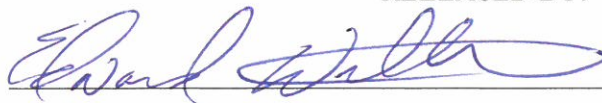
The City of Birmingham reserves the right to accept or reject any or all bids, or any part of any bid, and to waive any informalities or irregularities in the bid. The City of Birmingham may award contract in whole or in part based on the needs of the City of Birmingham.

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 – 08/10/2024

RELEASED BY:



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INVITATION TO BID

Sealed bids marked Ambulance Stretcher Fastener Maintenance, 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 **Friday, August 30, 2024.**
Bids submitted after these dates and times will not be considered.

Bids will be publicly opened at 10:00 A.M. on Monday, September 2, 2024.

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.

In the effort to decrease the spread of COVID-19, bid openings will be held in person and 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**).

TERM OF CONTRACT

Any contract resulting from this ITB will become effective upon bid award, not to exceed (3) three years. Per Section 3-3-7(7) of the Birmingham City Code and State Bid Law, the proposed contract shall be in effect for 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 **Ambulance Stretcher Fastener Maintenance, 5:00 P.M., August 30, 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.


Edward Williams, Assistant Purchasing Agent

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INVITATION TO BID – *Continued*

GENERAL

The City of Birmingham is seeking bids for repair and maintenance services for ambulance stretchers for Birmingham Fire and Rescue Service. The City intends to award to the lowest priced, responsive, responsible bidder. The City of Birmingham expressly reserves the right to reject any or all bids, or parts of bids, or to re-bid and to make the award as the best interest of the City of Birmingham appears. For the purchase of personal property, the City's policy is to apply a local preference option, as allowed by State of Alabama Code, Section 41-16-50, in determining the low bidder.

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.

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. The award of any item specified with options will be made based on the base bid or alternate bid or any combination of the two. All items are to be new and unused.

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-responsible 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.

CERTIFIED CHECK/BID BOND/CASHIER'S CHECK

Each bidder is to extend prices and provide a total for the bid being submitted. In order for any bid award to be considered that exceeds \$10,000.00 your bid must have been accompanied by an acceptable bid bond, certified check or cashier's 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.

PRICES

Include transportation (including fuel surcharge, if applicable).

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INVITATION TO BID – *Continued*

DELIVERY

Will be to location within the City of Birmingham as indicated on purchase order.

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.

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.

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.

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.

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INVITATION TO BID – *Continued*

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.

CORRECTIONS/AUTHORIZED SIGNATURE

Bids having any erasures or corrections must be initialed in ink. Bid must be signed in ink by an official authorized representative.

CONTACT

Questions regarding procurement should be addressed to Melinda Cunningham, Purchasing Division at 205-254-2878 or by email, melinda.cunningham@birninghamal.gov between the hours of 8:30 AM and 5:00 PM, Monday through Friday.

Questions regarding technical aspect should be addressed to Joseph Richardson, EMS Coordinator, Fire Department, either by fax, (205) 254-2990, or by email, joseph.richardson@birninghamal.gov between the hours of 9:00 AM and 4:00 PM, Monday through Friday.

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.

SPECIFICATIONS

Use of specific names and numbers is not intended to restrict the bidding of any seller and/or manufacturer, but is solely for the purpose of indicating the type, size and quality of materials, products, service, or equipment considered best adapted to the City of Birmingham's intended use. Proprietary specifications may be waived for functional equivalents offered and approved by The City of Birmingham Fire Department designee.

Ambulance Stretcher Fastener Maintenance specification requirements are as follows for maintenances and repair of patient moving systems:

- Company will carry a minimum of 3 million dollars in liability insurance.
- Certified with all stretcher manufactures.
- Insured to service repair and install fastener systems.
- All parts must be factory manufactured parts.
- All equipment must be serviced on site.
- Company will provide all parts for repair.
- No additional fees for special situations such as inspection of stretcher after a failure of request for service outside of normal maintenances schedule.
- Service stretcher fastener systems per manufactures guidelines.
- Inspection, service and repair stair chairs if required.
- Provide in-service training on stretcher handling as needed
- Maintenances and repair service Annually on Stryker Model 6082 and Performance Pro stretcher and Stryker Stair Pro Model 6052.
- Maintenance and repair service Annually on Ferno Models 35A, 35P and 35X
- Stretchers repaired still under warranty will be repaired at no additional cost

QUALIFICATIONS

Bids will be considered only from contractors, manufacturers, authorized distributors or dealers who are normally engaged in the manufacture, sale or distribution of materials requested herein. The bidder must have adequate organization, facilities, equipment and personnel to ensure prompt and efficient service to The City of Birmingham.

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INVITATION TO BID – *Continued*

REQUIREMENTS

Unless otherwise requested, any items utilized for the maintenance and repairs must be new and equal to or exceed specifications. The manufacturer's standard guarantee or warranty shall apply. During the guarantee or warranty period, the awarded bidder must repair and/or replace without cost to The City of Birmingham with the understanding that all replacements shall carry the same guarantee or warranty as the original equipment. The successful bidder shall make any such repairs and/or replacements immediately upon receiving notice from The City of Birmingham.

1. Vendors with Local service will be a requirement. Local service shall be defined as Birmingham, Alabama, within a seventy-five (75) mile radius.
2. Bidder must be licensed to do business in the State of Alabama and have a business license with The City of Birmingham. Documentation must accompany bid response.
3. Minimum of three (3) years experience preferred in the business of providing maintenance and repairs on ambulance stretcher.
4. Bidder must provide a list of three (3) references where they have provided maintenance and repairs on ambulance stretcher of same size and scope as listed herein located in the State of Alabama. Must include company name, address, contact name, position of contact person and telephone number.
5. Items are to be furnished on an as needed basis during the life of this contract.
6. Bidder is to provide exchange and refund policy.
7. Discrepancies must be handled promptly (within 7-days on incorrect delivery and within 30-days for invoicing errors/problems).
8. Vendor must be able to quote on brand name listed or a quality product commensurate with the item specified. Substitutions must be approved by Joseph Richardson, EMS Coordinator, Fire Department and Melinda Cunningham, Senior Buyer / Purchasing Department. Vendor must list the item number and manufacturer number of all items that are substituted.

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.

CONTRACT AWARD

The contract shall become effective from the date in the Notification of Award letter which will be mailed to the successful vendor. Contract award to purchase the service covered in this bid document shall be construed under and governed by the law of the State of Alabama and each party thereto irrevocably agrees to be subject to the jurisdictions of the courts of the State of Alabama.

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.

ADDITIONAL PURCHASES

The City has attempted to list all toner cartridges for Ambulance Stretcher Fastener Maintenance 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.

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INVITATION TO BID – *Continued*

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.

QUANTITIES

The quantities shown on the bid form are estimated initial purchase 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.

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.

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 THE SHIP-TO ADDRESS INDICATED ON PURCHASE ORDER:

****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. ****

PAYMENT TERMS

The City's standard payment terms are net 30 days from acceptance. Exceptions may be allowed for discounted early payments, such as 2% 10 net 30 days. The City will not consider any bids requiring C.O.D. payments.

PRE-PAYMENTS

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

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.

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 Purchasing Department and Accounting Division of the City of Birmingham.

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.

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INVITATION TO BID – *Continued*

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.

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 \$1,000,000.00 total with a maximum of \$500,000.00 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 \$500,000.00 bodily injury per occurrence, \$500,000.00 property damage or combined single limit of \$500,000.00; and (iii) Workman's Compensation coverage in an amount adequate to comply with the statutory requirements. The City's bid number **(25-12)** 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 – *Continued*

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.

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.

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, hereinafter (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).

SAFETY

The successful vendor(s) ("Vendor") warrants that it has inspected or will inspect the work sites before performing the services and work contemplated hereunder ("services"). Vendor(s) further warrants that it has not identified any condition or hazard that will prevent it from performing the services in a manner that does not endanger persons or property. Vendor(s) is exclusively responsible for performing the services in a safe manner that does not put at risk the safety of persons (including its own employees or representatives) or endanger property. Vendor(s) 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 Vendor(s) or any of its subcontractors; and (iii) other property at the work sites or adjacent thereto. Vendor 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.

PROTECTION DAMAGE

Contractor will be responsible for any damage to property of the City or others caused by him, his employees or subcontractors, and will replace and make good such damage. The contractor will maintain adequate protection to prevent damage to his work and property of others, and take all necessary precautions for the safety of his employees and others. The contractors will comply with all safety laws and regulations in effect in the locality.

PRE EXISTING CONDITIONS

All pre-existing conditions must be clearly documented (including but not limited to, photographs) to establish a clear definition of the work environment prior to commencing with any activities associated with this project. Vendor is responsible for correcting any defacement, damage or aesthetic appearance changes that occur beyond the point from the documentation of pre-existing conditions and any occurrences of damages during their contract.

Contract award to purchase the service 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 jurisdiction of the courts of the State of Alabama.

710 NORTH 20TH STREET
P-100 CITY HALL
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OFFICE: (205) 254-2265/FAX: (205) 254-2484

MELINDA CUNNINGHAM, SENIOR BUYER
EDWARD WILLIAMS, ASST. PURCHASING AGENT

AUGUST 9, 2024
ITB: 25-12

INVITATION TO BID – *Continued*

INSTALLATION/QUALITY ASSURANCE

Use adequate numbers of skilled workmen, under proper supervision, who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work in these specifications.

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.

PENALTIES

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 this agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties and other amounts due the City from the successful bidder.

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.

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 be purchased 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.

Melinda A. Cunningham

Melinda A. Cunningham, Senior Buyer

**CITY OF BIRMINGHAM-PURCHASING DIVISION
 710 NORTH 20TH STREET
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 EDWARD WILLIAMS, ASST. PURCHASING AGENT**

**AUGUST 9, 2024
 ITB: 25-12**

BID FORM

Edward Williams
 Assistant Purchasing Agent
 City of Birmingham, AL

Submitted below is my firm bid for Ambulance Stretcher Fastener Maintenance 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 AUGUST 9, 2024. Prices quoted are f.o.b. Birmingham, AL, and I am bidding in exact accordance with the specifications.

LINE NO.	DESCRIPTION	PRICE
1	Annual Service on Reserve Unit Stretchers	\$
2	Annual Service on Reserve Unit Fasteners	\$
3	Repair Parts Not Under Warranty for Yearly Service	\$
4	Unscheduled Service	\$ Per

Delivery is guaranteed no later than _____ days after order date.

Guaranteed discount if bid is renewed for a 2nd year _____ %

Guaranteed discount if bid is renewed for a 3rd year _____ %

NAME OF YOUR COMPANY _____

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EDWARD WILLIAMS, ASST. PURCHASING AGENT

AUGUST 9, 2024
ITB: 25-12

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.

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EDWARD WILLIAMS, ASST. PURCHASING AGENT**

**AUGUST 9, 2024
ITB: 25-12**

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:

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**AUGUST 9, 2024
ITB: 25-12**

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 OFFICAL)

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
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**AUGUST 9, 2024
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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:

_ _ / _ _ / _ _ _ _

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**AUGUST 9, 2024
ITB: 25-12**

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) _____

CONTRACT FOR MAINTENANCE AND REPAIR

THIS CONTRACT FOR MAINTENANCE AND REPAIR (the "Contract") is made and entered into on _____, 2024 by and between the CITY OF BIRMINGHAM, ALABAMA, a municipal corporation (hereinafter "City"), and _____, an Alabama corporation (hereinafter, "Company").

WITNESSETH:

WHEREAS, in connection with Invitation to Bid and Specifications # 25-12 (the "Bid"), the City has conducted a competitive bid process and selected a Contractor to repair and maintain ambulance stretchers for the Birmingham Fire and Rescue Service, and related services and work specified in the Bid and referenced in this Contract (collectively, the "Work"); and

WHEREAS, Company operates a business of repairing and maintaining ambulance stretchers and related equipment, and Company is being awarded the right to perform the 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 hereby acknowledged, the parties agree as follows:

Section 1: Scope/Exclusive Right. At its sole expense, Company agrees to provide all facilities, personnel, materials, and equipment necessary to perform the Work. The Bid, specifications and requirements in the Bid, and this Contract hereinafter collectively may be referenced as the "Contract." Company agrees to perform the Work for City.

Company agrees to perform the Work in accordance with the specifications and requirements in the Bid and comply with other obligations and requirements in the Bid and in this Contract. The Contract Requirements and Specifications are incorporated herein by this reference and attached hereto as **Exhibit A**.

During the Term (as defined below), except as provided in the Contract, Company shall have the exclusive right and privilege of performing the Work within the City of Birmingham, provided, however, nothing in this Contract shall prevent or preclude the City from utilizing its own equipment and personnel to perform any maintenance and repair of ambulance stretchers or related services.

Section 2: Term/Early Termination. Unless terminated sooner as provided herein, the term of this Contract shall commence on the date first written above (the

“Effective Date”) and shall continue in effect thereafter for a period of three (3) years, subject to the availability of funding.

The City may terminate this Contract before the expiration of its Term upon the occurrence of any of the following:

- A. Company defaults on a material obligation to the City under the Contract (a “Default”), and Company fails to correct or remedy the Default within seven (7) days after the City’s provision of written notice of Default to Company. The failure of the Company to timely perform the Work or comply with the specifications set forth in the Bid or this Contract shall be considered an event of Default. This termination remedy is in addition to any other remedy or right provided to the City in the Contract or available by law that arises from a Default; or
- B. At its convenience and without the occurrence of a Default by Company, the City may terminate this Contract by providing Company written notice of intent to terminate at least sixty (60) days before the end of the first twelve-month period of this Contract, or at any time after the first twelve-month period of this Contract; or
- C. Funding of this Contract is solely provided from the General Fund Budget of the City of Birmingham. At any time should the City fail to appropriate funds for this Contract, City shall give the Company written notice within (30) days of the passage of the budget of the City’s failure to appropriate funding for the Contract. The Contract shall terminate at that time. City shall only be obligated for payment of goods and services already provided at the time of termination; or
- D. The Company fails to perform the Work satisfactorily, or the product, item(s), or product lines provided in connection with the Work fail to perform satisfactorily, as addressed previously in the bid documents, on page 3, in the paragraph entitled “Cancellation.”

At any time after the first twelve-month period of this Contract, the Company may terminate this Contract before the expiration of its term upon giving ninety (90) days’ written notice to the City of its intent to terminate. This Contract may not be terminated by the Company during the first twelve-month period of this Contract.

Section 3: Compensation. Company’s compensation for the Work shall be an amount not to exceed that specified in the Bid Form submitted by the Company, a copy of which is attached as **Exhibit B**, without additional authorization from the City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment.

Section 4: Subcontracting. Company may retain and subcontract with another company or companies to assist Company with the Work. In the event that Company desires to so utilize the services of another company or companies, the following understandings apply:

- A. Subcontractor must have facilities and equipment located in, and be authorized to do business in the City of Birmingham;
- B. Company must provide the City written notice of its intent to use a subcontractor(s), and the City must in advance consent and approve the use of each subcontractor in writing. City may refuse to consent to Company's retention of a proposed subcontractor for any reason;
- C. Company must have a written Contract with the subcontractor to perform the service, and subcontractor must agree in that written Contract to comply with all requirements herein that relate to the performance of the Work;
- D. Company must furnish the City with copies of any subcontract within thirty (30) days of becoming effective. A current list indicating any Contractual services used by the Company in the performance of this Contract must be furnished to the City at least every ninety (90) days;
- E. At all times Company shall remain responsible to the City for the actions, conduct and performance of any subcontractor (and any of its agents, employees or representatives), and any Work performed by a subcontractor shall be considered as having been rendered by the Company and directly provided by it.
- F. The City reserves the right to request that Company remove any employees, agents, or subcontractors that fail to perform their duties competently, professionally, and in a skilled manner, and upon receipt of such request, Company shall forthwith dismiss and no longer employ any employees, agents, or subcontractors failing to maintain these standards

Section 5: Reports. If requested by the City's Director of Finance or the Director of the Birmingham Fire and Rescue Service (or their designated representatives), the Company shall furnish the City daily, monthly, and annual reports of all City-related transactions reflected in the Company's computer records system in a commercially reasonable format or on forms furnished by the City.

Section 6: Audit/Company's Retention of Records. Upon reasonable advance notice from the City's Director of Finance, Company, at its own expense, agrees to allow inspection of facilities and produce financial records maintained by it with respect to transactions contemplated under this Contract and otherwise participate in a periodic audit designed by the City to evaluate whether Company is properly accounting or completing financial transactions that are authorized and contemplated hereunder.

To facilitate any such financial audit, Company agrees that, for a period of no less than two (2) years following the termination of this Contract, it will maintain all accounting, billing or other financial records that Company generates and maintains in connection with its performance of its services hereunder.

Section 7: Indemnification/Insurance.

- A. Indemnification for Claims. Company agrees to defend, indemnify, and hold harmless the City of Birmingham, and their 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, subcontractor 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 Company or any Company Representative may enter or encounter in performing their services or Work; any (b) any act, omission or conduct by 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. This indemnification obligation includes Claims by third parties that are caused in part by the negligence of an Indemnitee; provided, nothing herein shall obligate Company to indemnify any of the Indemnitees for Claims resulting from the sole negligence or from the willful misconduct of the Indemnitees. Any indemnity obligation of company under this Contract shall survive the expiration or termination of this Contract.
- B. Claims by Company against the City. If the City commits a default or fails to perform a material obligation owed to Company hereunder, terminates this Agreement for its convenience or otherwise terminates it before its expiration, the City's sole obligation and liability to Company arising from such breach or termination is limited to payment of Company for Work and services it rendered prior to such breach or early termination. The portion of the fee payable to the Company at the time of Default or termination will be calculated in proportion to services actually performed when Company receives notice of termination.
- C. Insurance Requirements.

For the duration of this Contract and for limits not less than stated below, the Company shall maintain the following insurance at Company's cost and expense:

- (i) Company shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for Company's employees in accordance with the laws of the State of Alabama. In addition, the Company shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of Alabama for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the City, its officers, agents, employees, and volunteers for losses arising from work performed by Company for the City.

- (ii) General Liability Coverage. Company shall maintain commercial general liability insurance in an amount not less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least Four Million Dollars (\$4,000,000).

- (iii) Automobile Liability Coverage. Company shall maintain automobile liability insurance covering bodily injury and property damage for all activities of Company arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than One Million Dollars (\$1,000,000) combined single limit for each occurrence.

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.

The Company 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 Company herein.

The City's bid number (25-12) must appear on any/all copies of the Certificate of Insurance.

1. City Additional Named Insured. Except for the Workers 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 Company 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 form ISO, CG 2010 and CG 2037.

2. **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.
3. **Waiver of Subrogation.** Company shall require the carriers of the above-required insurance coverage to waive all rights of subrogation against the City, and its officers, employees, agents, and subcontractors. Further, Company hereby waives any rights of subrogation against the City. All general or automobile liability coverage provided herein shall not prohibit the Company or its employees, agents or representatives from waiving the right of subrogation prior to loss or claim.
4. **Proof of Coverage.** Before the commencement of Work hereunder, the Company shall provide to the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. These certificates shall provide that such insurance shall not be changed, terminated or expire without thirty (30) days advance notice to the City. In the event 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 Company 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.

Section 8. Bid Form. A copy of the Bid Form submitted by the Company is attached as **Exhibit B**. Provided the Company performs its Work pursuant to the requirements of this Contract, Company may charge for its various services at the rates set forth on its Bid Form.

Section 9. Payment of Invoices by City. Company shall submit monthly invoices to a representative designated by the City (the "City Representative"). Company's invoices shall include a brief description of the Services performed, the date the Services were performed, or deliverables provided, the number of hours spent and by whom, and a description of any reimbursable expenditures.

Notwithstanding any provision herein, Company acknowledges and agrees that the City has the right to deduct from total amount of consideration to be paid, if any, to the Company under this Contract all unpaid, delinquent, or overdue license fees, taxes,

finances, penalties, and other amounts due the City from the Company.

Company's invoices may be rejected, revised, and resubmitted, subject to conditions indicated in paragraphs (i) and (ii) below:

(i) Should the City Representative determine, in review of an invoice, that the Services and deliverables for which billing is submitted in required form have not been satisfactorily or completely provided, the City Representative may reject the invoice and return it to Company for revision and resubmission, provided that the reason(s) for the rejection or the disputed Services or deliverables are identified in writing to Company.

(ii) Upon receipt of notice of rejection of an invoice, Company may revise and resubmit the invoice, provided that Company also makes, in timely fashion, reasonable efforts to correct or complete the disputed Services or deliverables identified in the City Representative's written rejection. If the City Representative determines, in the exercise of his or her sole and reasonable judgment, that satisfactory progress in completing the Services or deliverables so identified has not been made within thirty (30) calendar days of Company's receipt of the rejection, the City Representative may direct Company, in writing, to stop further work until the City Representative determines that satisfactory progress is being made, at which time the City will inform Company, in writing, that Company may resume work.

(iii) Company must give written notice that the Services have been completed or substantially completed, and the City shall make a final inspection of the Services, and if the Services are found to be completed or substantially completed in accordance with this Agreement, the City shall, upon the receipt of invoice, make final payment to Company within thirty (30) days the balance due Company under the terms of this Agreement

Section 10: Contract Representatives. Each party shall appoint a representative(s) who shall coordinate with the other party on matters pertinent to the performance of the Work and administration of this Contract (the "Contract Representative(s)"). The City's Contract Representatives are:

With Copy to:

City of Birmingham
Purchasing Department
710 20th Street North, Room P100
Birmingham, AL 35203
205-254-2265
Email: melinda.cunningham@birminghamal.gov

City of Birmingham
Office of the City Attorney
710 20th Street North, 6th Floor
Birmingham, AL 35203
205-254-2369
Attention: Brennan Rutledge,
Assistant City Attorney

The Company's Contract Representative is:

(205) _____
Email: _____

The Contract Representative(s) 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.

Section 11: Notices. Any notice required hereunder shall be in writing and either served personally or sent by prepaid, first-class United States mail to the appropriate Contract Representatives. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this Section.

Section 12: Non-Discrimination/ Disadvantaged Business Enterprises.

- A. Company (and its employees, agents and any subcontractors) shall not discriminate on the basis of race, color, national origin, or sex in the performance of the services contemplated hereunder or its own employment practices. Failure by the Company 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.
- B. Company 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.
- C. Company acknowledges and agrees that the City, as a matter of public policy, encourages participation of minority- and women-owned and other disadvantaged business enterprises to the maximum extent possible. This policy includes historically under-utilized 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.

Section 13: Other Representations and Warranties. As additional inducement to the City for it to enter the Contract, Company makes the following additional representations and warranties:

- A. It will perform the Work in a good and workmanlike manner. The City has relied upon the professional training and ability of Company to perform the Services hereunder as a material inducement to enter into this Agreement. Company shall therefore provide properly skilled professional and technical personnel to perform all Services under this Agreement. All work performed by Company under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Company's field of expertise;
- B. 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;
- C. On the Effective Date and throughout the Term of this Contract, it shall have in place and utilize a written policy concerning the testing of Company employees for drug use. This policy shall outline the procedures used to test current employees as well as potential new employees for the Company, and actions to be taken when drug use is discovered. Company shall provide a copy of its written policy to the City before the Contract is signed;
- D. If Company conducts business through a corporation, limited liability corporation, or other similar organization,

- I. The Company shall comply with all applicable laws, rules, regulations and ordinances, and they will be deemed to be included in the Agreement as though written out in full in the Agreement.
- J. The Company agrees that it will furnish prompt service to the City of Birmingham for inspection and repair as necessary of the ambulance stretchers of the Birmingham Fire and Rescue Service.

Section 14: Miscellaneous Provisions.

- A. Permits. Before commencing the Work, 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"). Company further agrees to maintain that Licensing throughout the performance of its Work.
- B. Compliance with Laws. Throughout the Term of this Contract, Company agrees to comply with all regulations and laws concerning the performance of the work, including, but not limited to, laws concerning the safety, inspection, maintenance, and operation of its equipment used to perform the Work, and laws regarding the employment and use of qualified employees to perform the work.
- C. Licenses. Throughout the Term of this Contract, company shall maintain all Municipal, County, and/or State licenses and all City of Birmingham tax liabilities current. Failure to do so will be grounds for default as herein stated.
- D. With respect to any goods or equipment used by Company to perform its Work for the City, Company warrants that it owns, is licensed or has the right to utilize such equipment, including all intellectual rights attendant thereto. To the fullest extent permitted by law, 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 Company's breach of this warranty.
- E. Confidentiality. Company agrees that 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.
- F. Independent Contractor. Company is an independent Contractor of the City.

This Contract does not create any partnership, joint venture, or principal-agent relationship between the City and 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, representatives or subcontractors) performs the Work.

- G. No Assignment. The Company shall not assign this Contract, 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 will this Contract be assigned to an unsuccessful bidder who was rejected because they were not a responsive or responsible bidder.
- H. No Third Party Beneficiary. This Contract is made only for the benefit of the City and Company. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.
- I. Compliance with Alabama Competitive Bid Law. By signing this Contract, Company represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade. Further, Company represents that it does not and will not engage in economic boycotts in accordance with the provisions of Alabama Legislature Act 2023-409 (effective September 1, 2023).
- J. Entire Agreement; Amendment. This Contract (which includes the Bid, and the specifications and requirements in the Bid) and the Exhibits to this Contract constitute the entire agreement between the parties. These 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 Contract. This Contract may be amended or modified only by written instrument signed by both parties.
- K. Execution in Counterparts. This Contract 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 Contract or counterpart shall be deemed, and shall have the same legal force and effect as, an original document.
- L. Non-Waiver. Any forbearance or delay on the part of the City in enforcing any of its rights under this Contract shall not be construed as a waiver of its rights. No terms of this Contract shall be waived unless expressly waived in writing. The company must fully and completely comply with all the duties and obligations to be performed by it under the Contract. The City's past forbearance or waiver of any obligations of any other Contractors pursuant to any similar, previous agreement is not effective or binding and will not excuse performance under the contemplated Contract.

- M. Severability. If any provision of this Contract 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.
- N. Dispute Resolution. The parties will use their good faith efforts to resolve any dispute or claim between the parties arising from the performance or failure to perform their respective obligations under this agreement (a "Dispute"). Those efforts will include escalation of the Dispute to the senior manager/official level of each party. However, if the parties are unable to amicably resolve any Dispute, the dispute resolution mechanism shall be litigation in a state court of competent jurisdiction that is located in Jefferson County, Alabama. The parties waive any right to a trial by jury in any legal action between them that is instituted to resolve a Dispute.
- O. Attorney Expense. If (i) either party should employ attorneys or incur other expenses in any legal action regarding a Dispute, and (ii) City secures a final judgment in the City's favor before a court of competent jurisdiction or obtains other relief from an administrative body related thereto against the Company, Company will pay the City its reasonable attorney's fees and other reasonable expenses that are incurred in that action.
- P. Limitation of Liability/Exclusion of Consequential Damages. COMPANY AND THE CITY AGREE AND ACKNOWLEDGE THAT, IN THE EVENT EITHER ASSERT OR MAKE ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE OTHER ARISING FROM AN ALLEGED BREACH OF THIS AGREEMENT OR AN ALLEGED FAILURE TO PERFORM ANY OF THEIR RESPECTIVE OBLIGATIONS HEREUNDER, THE MAXIMUM AMOUNT THAT EITHER MAY RECOVER FROM THE OTHER AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO ACTUAL DAMAGES THAT DIRECTLY ARISE FROM THAT BREACH AND ARE PROVEN IN A COURT OF LAW. COMPANY AND THE CITY AGREE AND ACKNOWLEDGE THAT THE COMMERCIAL TERMS HEREIN WERE PROPOSED AND BASED ON THE ASSUSPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT NEITHER WOULD HAVE ENTERED INTO THIS AGREEMENT WITHOUT ITS INCLUSION. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR OTHER SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS. NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO LIMIT, MODIFY OR AFFECT THE COMPANY'S INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT.
- Q. 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.

- R. “Buy Local”. 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 and it will encourage any subcontractor of the Company, if any, to buy and/or lease supplies, materials and equipment from vendors located within the corporate limits of the City of Birmingham.
- S. Local Hiring. Company agrees to make, and to cause its subcontractors, if any, to make commercially reasonable efforts to hire qualified residents of the City of Birmingham to fill available positions with respect to the Work.
- T. Contract Controls. In the event of a conflict between any term, specification or provision in the bid documents and those in this Contract, the provisions in this Contract shall control and govern.
- U. 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, §31-13-1, *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 services for the City in Alabama and shall provide documentation establishing that the Company is enrolled in the E-Verify program. During the performance of this Agreement, the 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 their subcontractors by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work for the Company in Alabama, that such subcontractors are in compliance with the Act with respect to their participation in the E-Verify program. The Company represents and warrants that the Company shall not hire, retain or contract with any subcontractor for services under this Agreement which the Company knows are 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.
- V. Applicable Law; Venue. This Contract shall be construed and interpreted in

accordance with the laws of the State of Alabama and, in the event of a dispute, the venue of any action brought hereunder shall be exclusively in the Circuit Court of Jefferson County, Alabama, Birmingham Division.

W. Entire Contract. This instrument contains the entire contract between the parties and all prior written or oral negotiations, discussions, understandings and contracts are merged herein.

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

CITY OF BIRMINGHAM, A MUNICIPAL CORPORATION:

BY: _____
Randall L. Woodfin, Mayor

DATE: _____

ATTEST:

City Clerk

BY: _____

ITS: _____ (Official Title)

DATE: _____

APPROVED AS TO FORM BY LAW DEPARTMENT:

Assistant City Attorney / Date

Exhibit B – Bid Form Submitted by Company