

# CITY OF TUSCALOOSA, ALABAMA



## SERVICES CONTRACT

BID

WALTER MADDOX, MAYOR

CITY COUNCIL OF TUSCALOOSA

Council Members:

Joseph Eatmon

Raevan Howard Williams

Norman Crow

Lee Busby

Kip Tyner

John Faile

Cassius Lanier

Scott Holmes, City Attorney

SERVICES: Generator Inspections & Maintenance

FILE: OCA-24-1174

DEPARTMENT: Construction, Facilities & Grounds (CFG)

CONTRACTOR: \_\_\_\_\_

(2025)

**THIS CONTRACT**, made and entered into by and between \_\_\_\_\_ whose address is \_\_\_\_\_, hereinafter sometimes referred to as "CONTRACTOR," and the **CITY OF TUSCALOOSA**, a Municipal Corporation of the State of Alabama, hereinafter sometimes referred to as "CITY."

**W-I-T-N-E-S-S-E-T-H:**

In consideration of the amount contained herein, and of the mutual agreements and provisions also contained herein, the Contractor and the City agree to the following:

**1. WORK AND SERVICES TO BE PERFORMED BY CONTRACTOR:**

**a.** Work and Services to be performed are contained in the Invitation to Bid, including any and all terms, conditions, definitions, instructions, directions, scopes of work, specifications, information, forms, bid proposal forms, response forms and/or letters, qualifications, exhibits, attachments, appendixes, addendum, maps, illustrations, photographs, and/or lists attached hereto are adopted herein by reference as "Exhibit A, Invitation to Bid and Bidder's Response." In the event of a conflict between the provisions hereof and/or that of "Exhibit A", the provisions hereof shall prevail. Any changes in the terms and conditions hereof and/or any changes to "Exhibit A" herein shall only be by amendment, in writing, duly authorized and executed by the parties.

**b.** Scope of Services: This contract is for Generator Inspections & Maintenance Services as directed by the City. The Contractor will furnish at his own cost and expense all labor, tools, equipment and transportation as are required or necessary and shall perform all the work in a manner and form required by the terms and conditions of this Contract to the satisfaction of the CITY as further described in "Exhibit A, Invitation to Bid and Bidder's Response."

**c.** Contractor's Tools and Equipment: The Contractor's tools and equipment used on the Project shall be furnished in sufficient quantity and of a capacity and type that will adequately and safely perform the work specified and shall be maintained and used in a manner that will not create a hazard to persons or property or cause a delay in the progress of the services to be performed, as further described in "Exhibit A, Invitation to Bid and Bidder's Response."

**d.** Furnishing Labor and Equipment: The Contractor shall furnish and pay for all equipment, labor, supervision of labor and all such materials as may otherwise be necessary to the completion of all work and the operation of each crew required to perform all work, as further described in "Exhibit A, Invitation to Bid and Bidder's Response."

## **2. PAYMENT:**

- a.** The City shall pay to Contractor, and Contractor agrees to accept as full and complete compensation and payment for work performed under and in accordance with and pursuant to this Agreement, according to rates bid and contained in “Exhibit A, Invitation to Bid and Bidder’s Response” and as invoiced on a monthly basis for work performed in the previous month.
- b.** The Contractor will be paid on the basis of itemized invoices submitted to be paid Net30. The invoice shall reference the contract number awarded as a result of this solicitation. Additionally, invoicing should itemize service address locations. It is preferred that the Contractor submit electronic invoices to [accountspayable@tuscaloosa.com](mailto:accountspayable@tuscaloosa.com).
- c.** The total cost to the City for work and services performed under this Contract shall not exceed the totals and rates in “Exhibit A, Invitation to Bid and Bidder’s Response” without prior notification to the City and its consent thereto.

## **3. TERM:**

- a.** The term of the Contract shall be for a period of one (1) year effective December 15, 2025 through December 14, 2026 and shall automatically renew for two (2) additional years for a total maximum contract term of three (3) years from the date of execution hereof, unless sooner terminated pursuant to the provision herein provided.
- b.** Renewal described in (a) above shall occur automatically and without notice to the Contractor unless otherwise communicated to the Contractor by the City at least 30 days before the expiration of the 365-day term. Either party may elect not to renew the contract by giving the other party thirty (30) days written notice prior to the anniversary date, in which event the contract shall terminate on the anniversary date.
- c.** The term of this Agreement will not be automatically renewed/extended if, at the then-current expiration of the term, the Contractor is in material breach of this Agreement.
- d.** The City of Tuscaloosa reserves the right to terminate this contract at any time without notice upon good cause shown. In the event of termination, the successful bidder shall be paid in full for all work previously authorized and performed up to the date of termination.
- e.** The City may terminate this contract for convenience upon ninety (90) days written notice to the Contractor.

#### **4. INSURANCE:**

**a.** Contractor shall secure and maintain through the duration of this contract, insurance in such amounts as may be necessary to protect the interest of the City against hazards or risks of losses hereinafter specified. Such insurance shall be carried by a company or companies doing business by agent in the City of Tuscaloosa and shall be in a form and amount to be approved by the City, in the amounts indicated in "Exhibit A, Invitation to Bid and Bidder's Response." If "Exhibit A, Invitation to Bid and Bidder's Response" does not describe insurance limits, then the following shall apply:

**b.** Without limiting the requirements above set forth, the insurance coverage shall include a minimum of:

(1) Workmen's Compensation Insurance in an amount as required under the laws of the State of Alabama. In case any work is sublet, with the consent of the City of Tuscaloosa, the Contract shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees.

(2) Public General Liability Insurance, written in comprehensive form, that protects the Contractor and the City against claims arising from injuries to members of the public, City employees or damage to property of others arising out of any act or omission to act of the Contractor, or any of its agents, employees or subcontractors. The limit of liability shall not be less than \$1,000,000.00 combined single limits.

(3) Property Insurance which shall include damage to the property of the City of Tuscaloosa in an amount not less than \$1,000,000.00.

(4) The City of Tuscaloosa, its officers, agents and employees shall be named as additional insured under the policies in subparagraphs B and C and so identified in the Certificate of Insurance. The Contractor shall furnish the City Certificates of such insurance, to serve as satisfactory proof to the signing of this Contract. In case any work is sublet, the Contractor shall require the subcontractor similarly to provide public liability and property insurance in the above stated amounts.

**c.** The Certificate of Insurance shall contain a provision that not less than ten (10) days written notice shall be given to the City before any policy or coverage is canceled.

#### **5. OTHER TERMS AND CONDITIONS**

**a. INDEPENDENT CONTRACTOR:** Contractor enters into this Contract with the City as an Independent Contractor and, as such, the City shall not be responsible for the acts or omissions of the Contractor, or any subcontractors employed by it. It is the intent of the parties to this

agreement that they be the only parties to the same to expressly exclude third party beneficiaries. No person not a party to this Agreement may claim any benefits hereunder.

**b. COMPETENCE:** Contractor represents that it is experienced, competent and capable to perform the described work and services as contained in "Exhibit A, Invitation to Bid and Bidder's Response". Contractor agrees to perform all work and services under this Contract according to all conditions contained in "Exhibit A, Invitation to Bid and Bidder's Response" and in a manner consistent with that level of care and skill ordinarily exercised by individuals in the same field or business for similar work.

**c. ASSIGNABILITY:** Contractor shall not assign, subcontract, transfer, sublease, pledge, surrender, convey, sell or otherwise dispose of any portion of this Contract, his right, title or interest therein, or his power to execute such contract, to any person, firm, or corporation without the prior written consent of the City and such written consent shall not be construed as to relieve the Contractor of any responsibility for the fulfillment of the Contract.

**d. PRIOR REPRESENTATIONS:** The Contract, including any Exhibits incorporated herein, represents the entire and integrated agreement between the City and the Contractor and supersedes all prior agreements, either oral or written. This agreement may be amended only by written instrument duly authorized and executed by both the City and the Contractor.

**e. COMPLIANCE WITH LAWS:** The Contractor shall keep himself fully informed of all laws, ordinances and regulations of the State of Alabama, City of Tuscaloosa, Tuscaloosa County and the federal government in any manner affecting the performance of this Contract. The Contractor shall, at all times, observe and comply with such existing and future laws, ordinances and regulations.

**f. MISCELLANEOUS:**

**(1) Capacity:** Each Party to this Agreement represents and warrants to the other as follows:

A. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.

B. That each has full power and capacity to enter into this agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.

C. That to the extent required, each party has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the party.

D. That each party has duly authorized and empowered a representative to execute this agreement on their respective behalf and the execution of this agreement by such representative fully and completely binds the party to the terms and conditions hereof.

E. That absent fraud, the execution of this agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other party shall be entitled to rely upon the same. To the extent a party is a partnership, limited liability company or joint venture, the execution of this agreement by any member thereof shall bind the party and to the extent that the execution of agreement is limited to a manager, managing partner or specific member then the person so executing this agreement is duly authorized to act in such capacity for the party.

F. That each party represents and warrants to the other that there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this agreement.

G. That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this agreement.

H. Under the provisions of the Constitution and laws of the State of Alabama, each party has the power to consummate the transactions contemplated by this agreement.

I. Each party represents and warrants that the execution and delivery of this agreement and the consummation of the transactions contemplated herein will not conflict with, be in violation of, or constitute (upon notice or lapse of time, or both) a default under the laws of the State of Alabama, any resolution, agreement, or other contract agreement, or instrument to which a party is subject, or any resolution, order, rule, regulation, writ, injunction, decree or judgment of any governmental authority or court having jurisdiction over the party.

J. This agreement constitutes the legal, valid and binding obligation of each party and is enforceable against each party in accordance with its terms, except in so far as the enforceability thereof may be limited by:

(1) Bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights

(2) General principles of equity, regardless of whether such enforceability is considered as a proceeding at equity or at law.

K. Neither party will enter into any agreement to do anything prohibited in this agreement or enter into any agreement or take any action which would in any way impair the ability of the other party to faithfully and fully perform its obligations hereunder.

L. Under the provisions of the Constitution and laws of the State of Alabama, each party has the power to consummate the transactions contemplated by this agreement.

**(2) Ownership of Contract Documents:** The Contract Documents, and copies of parts thereof, are furnished and owned by the City. All portions of the Contract Document, and copies of parts thereof, are the instruments of serve for this project. They are not to be used on other work and are to be returned to the City on request at the completion of the work. Any reuse of these materials without specific written verification or adaptation by the City will be at the risk of the user and without liability or legal expense to the City. Such user shall hold the City harmless

from any and all damages, including reasonable attorneys' fees, from any and all claims arising from any such reuse. Any such verification and adoption shall entitle the City to further compensation at rates to be agreed upon by the user and the City.

**(3) City Logo and Name:** The Contractor shall not use the City of Tuscaloosa's name or insignia or logo in any magazine, trade paper, newspaper, advertisement or other medium without first obtaining the written consent of the Owner.

**(4) Waiver:** Non enforcement of any provision of this Agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the Agreement.

**(5) Prohibition on Assignment and Delegation:** No party to this Agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

**(6) Third Party Beneficiaries:** It is the intent of the parties hereto that there shall be no third party beneficiaries to this Agreement.

**(7) Final Integration:** This Agreement, together with any amendments, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. In the event of a direct conflict between the provisions hereof and any prior agreement or amendment, the latter shall supersede the former. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

**(8) Force Majeure:** Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

**(9) Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

**(10) Binding Effect:** This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns. If any provision

in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**(11) Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.

**(12) Construction:** This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

**(13) Mandatory and Permissive:** "Shall", "will", and "agrees" are mandatory; "may" is permissive.

**(14) Governing Laws and Venue:** The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement. The Parties agree that jurisdiction and venue of all matters relating to this Agreement shall be vested exclusively in the federal and state courts located in or serving Tuscaloosa County in the State of Alabama.

**(15) Liability of the City or City Officials:** Notwithstanding any provision hereof to the contrary, the parties agree and acknowledge that the liability and obligations of the City, City officials or City employees as set forth herein are subject to the limitations imposed on municipalities by the Constitution and laws of the State of Alabama. No present or future official, officer or employee of the City shall ever be personally liable for the performance of any obligations hereunder.

**(16) Non Discrimination:** The Contractor agrees that in performing the work and services as required herein under this agreement, not to discriminate against any person on the basis of race, color, religion, sex, age or disability. The Contractor shall fully comply with the Americans with Disabilities Act, the Fair Labor Standards Act and all other applicable laws and regulations.

**(17) Fines and Penalties:** The Contractor shall be solely liable for any and all fines or penalties which may be levied by any governmental authority against the Owner and/or Contractor which are related to the Contractor's operations. The Owner shall deduct the amount of the levied fine or penalty from the contract amount.

**(18) Agreement Date/Counterparts:** The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.



**(19) Use of Words and Phrases:** The following words and phrases, where used in this document, shall be given the following and respective interpretations: "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this document as an entirety and not solely to the particular portion hereof in which any such word is used. The definitions set forth in any portion of this Agreement unless the text or context indicates differently shall be deemed applicable whether the words defined are herein used in the singular or the plural. Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

**(20) Severability:** Each provision of this agreement shall be considered to be severable and, if for any reason, any such provision or any part thereof, is determined to be invalid and contrary to any existing or future applicable law, such invalidity shall not impair the operation of or affect those portions of this agreement that are valid, but this agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part thereof had been omitted.

**g. COMPLIANCE WITH IMMIGRATION LAW:** 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, to the extent allowed by Federal law.

**h. COMPLIANCE WITH AFFORDABLE HEALTH CARE ACT:** By signing this agreement, the contracting parties affirm, for the duration of the agreement, that they will not violate federal compliance laws pertaining to the Affordable Health Care Act. 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, to the extent allowed by Federal law.

**SIGNATURE PAGE TO FOLLOW**

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their undersigned duly authorized representative on the dates set forth below:

**CITY OF TUSCALOOSA, A Municipal Corporation**

**CONTRACTOR:** \_\_\_\_\_

**BY:** \_\_\_\_\_  
**Walter Maddox, Mayor**

**BY:** \_\_\_\_\_  
**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**Clerk, City of Tuscaloosa**

**Attached:** \_\_\_\_\_