

THE CITY OF PHENIX CITY, ALABAMA
Engineering Department



2018 Cemetery Grave Repairs

EDDIE N. LOWE, MAYOR
WALLACE B. HUNTER, CITY MANAGER
ANGEL MOORE, CITY ENGINEER

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ADVERTISEMENT FOR BIDS

Sealed bids for the 2018 Cemetery Grave Repairs will be received by the City of Phenix City **until 10:00 A.M. EST. (9:00 A.M. CT.), Monday, July 30, 2018** at the City of Phenix City Finance Department located at 601 12th Street, Phenix City, AL 36867 and at said time bids will be publicly opened and read aloud.

The project generally consists of the following:

- Provide site safety and clean up supervision.
- Repair 100 graves as selected by Owner.
- Remove vault cover of damaged graves as selected by the Owner.
- Backfill graves and compact backfill to the Owner's satisfaction. (Backfill will be provided by Owner.)
- Place perimeter bed of dry concrete mix to serve as a foundation and sealant for each vault cover.
- Place new concrete vault cover as close to flush with ground as possible on graves as selected by the Owner. Vault cover shall be 6 to 8 inches thick precast, of 5,000 psi compression strength and reinforced with either 6 inch X 6 inch 10 gauge concrete reinforcing wire or fiber mesh.
- Backfill around sides of grave liner cover so that the Owner may grass it.
- The Contractor shall not perform any work during funerals. The Owner will provide a twenty four (24) hour notice of funerals during the 180 days allotted in this Contract.

Copies of the CONTRACT DOCUMENTS AND PLANS may be obtained at the City of Phenix City Engineering Department at 1206 7TH Avenue, Phenix City, AL 36868.

The Owner reserves the right to waive any informality, or to reject any or all bids, and to award the contract to the best and most responsible bidder. All bidders shall submit, upon request, a list of projects "successfully completed" in the last 2 years, having the same scope of work and approximate construction cost as specified in this project. All bidders must comply with requirements of the Contractors Licensing Law of the State of Alabama, be certified for the type of work on which the proposal is submitted and have or obtain a City of Phenix City Business License. Each bidder must deposit his bid security in the amount, form and subject to the conditions provided in the Instructions to Bidders.

All Bidders bidding in amounts exceeding that established by the State Licensing Board for General Contractors must be licensed under the provisions of Title 34, Chapter 8, Code of Alabama, 1975, and must show evidence of license before bidding or bid will not be received or considered by the Engineer; the Bidder shall show such evidence by clearly displaying the license number on the outside of the envelope in which the Proposal is delivered.

No bidder may withdraw his bid within 60 days after the opening thereof.

All bids should be submitted in the Contract Documents and Specifications Package as issued by the Engineer. All bids must be submitted in an envelope bearing on the outside the name of the Bidder, Bidder's license number, address and name of the project. Envelopes containing bids must be addressed as follows, and delivered to **City of Phenix City, Finance Department, 601 12th Street Phenix City, AL 36867: "2018 Cemetery Grave Repairs"**.

INSTRUCTIONS TO BIDDERS

1.0 DEFINED TERMS

1.1 Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to Owner, as distinct from a sub-bidder, who submits a bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive Bidder to whom Owner makes an award. The term "Bidding Documents" includes the Request for Proposal, Instructions to Bidders, Proposal, and the proposed Contract Documents, including all Addenda.

2.0 COPIES OF BIDDING DOCUMENTS

2.1 The Bidding Documents including a grave repair detail may be obtained from the Phenix City Engineering Department for a cost \$30.00.

2.2 Complete sets of Bidding Documents must be used in preparing Bids. The Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.3 Owner in making copies of Bidding Documents does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant any other use.

3.0 QUALIFICATIONS OF BIDDERS

3.1 To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days of Owner's request written evidence, such as financial data, previous experience, present commitments and other such data as may be called for in the Supplementary Instructions. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located.

4.0 EXAMINATION OF CONTRACT DOCUMENTS, CONSTRUCTION PLANS AND SITE

4.1 It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents and Construction Plans thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance of furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Owner of all conflicts, errors or discrepancies in the Contract Documents.

4.2 Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner does not assume responsibility for the accuracy or completeness thereof.

4.3 Before submitting a Bid, each Bidder will, at Bidder's own expense, make or obtain any additional examination, investigations, explorations, tests and studies and obtain any additional information and

data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.4 Upon request, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

4.5 The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment shall require approval by the City.

4.6 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

5.0 **BID SECURITY**

5.1 Each Bid must be accompanied by a Bid security made payable to Owner in an amount of five percent (not to exceed \$10,000.00) of the Bidder's maximum Bid and in the form of a certified bank check or a Bid Bond issued by a surety.

5.2 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Bid Agreement and furnished the required contract security, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of the Bidder will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until either the seventh day after the Effective Date of the Agreement or the sixtieth day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven days after the Bid opening.

6.0 **CONTRACT TIME**

6.1 The number of days within which, or the dates by which, the Work is to be completed and ready for final payment (the Contract Time) are set forth in the Bid Form and the Agreement.

7.0 **LIQUIDATED DAMAGES**

7.1 Provisions for liquidated damages are set forth in the Bid Agreement.

8.0 **SUBCONTRACTORS, SUPPLIERS AND OTHERS**

8.1 The apparent Successful Bidder, and any other bidder so requested, shall within seven days after the Bid opening submit to Owner a list of all such subcontractors, suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such subcontractor, supplier, person or organization. If Owner or Engineer after due investigation has reasonable objection to any proposed

subcontractor, supplier, other person or organization, either may before the Notice of Award is given request the apparent Successful Bidder to submit an acceptable substitute in which case the apparent Successful Bidder shall submit an acceptable substitute, that Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution and Owner may consider such price adjustment in evaluating Bids and making the contract award.

8.2 If apparent Successful Bidder declines to make any such substitution, the Owner may award the contract to the next lowest qualified Bidder that proposes to use acceptable subcontractors, suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any subcontractor, supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement.

8.3 No Contractor shall be required to employ any subcontractor, supplier, other person or organization against whom Contractor has reasonable objection.

9.0 **OR EQUAL**

9.1 Where "or equal" or "approved equal" occurs in the specifications, the Contractor will be allowed under the procedure outlined below to submit for approval prior to the bid opening detailed information concerning alternative products. The information shall contain:

- a. A copy of the contract specifications that name the materials, products and manufacturers as specified.
- b. The manufacturers' specifications for the materials, products and performance of the proposed alternative.
- c. Submittals concerning all proposed substitutions shall be submitted in writing to the Engineer 14 days or more prior to the date of the bid opening. All submittals shall be made in good faith and shall be certified as verifiably equal or superior to the specified item.
- d. All submittals shall include all data that would be present in construction drawings and specifications, including complete names and descriptions, dimensions and performance verification.
- e. If a new material is proposed for substitution, data shall be provided on laboratory tests and standards that have been observed in the design of the product.
- f. If a new supplier is proposed, information concerning their capabilities and experience shall be included in the submittal.
- g. The Engineer will review the "or equal" submittal package as quickly as possible and will issue a written opinion to the Contractor and to all other bidders within two days of the bid opening.

10.0 **CONSTRUCTION SCHEDULE**

10.1 The Contractor shall furnish to the Owner an estimated construction progress schedule in a form satisfactory to the Owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents.

10.2 The Contractor shall schedule the work to be completed within the time for completion as provided in the Contract. Work shall be scheduled during regular work times during week days, except for special or emergency situations that may arise. Engineer shall be notified in writing at least two days in advance of any overtime or weekend work schedules, except in the case of emergencies. Contractor shall be responsible for any extra inspection and testing costs resulting from work performed under special work hour conditions.

11.0 **PROTECTION OF OWNER**

11.1 Contractor acknowledges that it is an independent Contractor and agrees to indemnify and hold harmless the owner against loss or threatened loss or expense by reason of the liability or potential liability of the Owner for, or arising out of any claims for damages, including but not limited to bodily injuries, death, or damage to property due to any act or omission of the Contractor, its employees, agents, or subcontractors arising out of this agreement. The Contractor will require any and all subcontractors to conform with the provisions of this clause prior to commencing any work and agrees to name as additional insured the Owner.

11.2 The Contractor and his insurer, by the Contractor's execution of the Contract, shall waive all rights of subrogation against the Owner on all insurance provided by the Contractor and by every Subcontractor.

11.3 The Contractor and his insurer agree all policies furnished by Contractor shall contain no exclusion pertaining to faulty workmanship, job related accident, or safety of construction sequences.

12.0 **BID AGREEMENT FORM**

12.1 The Bid Agreement Form is included with the Bidding Documents; additional copies may be obtained from the Engineer.

12.2 All blanks on the Bid Agreement Form must be completed in ink or by typewriter.

12.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

12.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

12.5 All names must be typed or printed below the signature.

12.6 The Bid shall contain an acknowledgement of receipt of all Contract Documents.

13.0 **SUBMISSION OF BIDS**

13.1 Bids shall be submitted at the time and place indicated in the Advertisement to Bid and shall be enclosed in an opaque sealed envelope, marked with the name of the Bidder, Bidder's license number, address, name of the project, accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

14.0 **MODIFICATION AND WITHDRAWAL OF BIDS**

- 14.1 Bids may be modified or withdrawn by an appropriate document duly executed and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 14.2 If, within twenty-four hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

15.0 **OPENING OF BIDS**

- 15.1 A tabulation of the Bids will be made available to Bidders after award of the contract.

16.0 **BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

- 16.1 All bids will remain subject to acceptance for sixty (60) days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date.

17.0 **AWARD OF CONTRACT**

- 17.1 Owner reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 17.2 In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 17.3 Owner may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of subcontractors, suppliers, and other persons and organizations must be submitted. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 17.4 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.
- 17.5 If the contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project.
- 17.6 If the contract is to be awarded, Owner will give the Successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

18.0 **CONTRACT SECURITY**

18.1 When the Successful Bidder delivers the executed Bid Agreement to Owner, it must be accompanied by the required Performance Bonds.

19.0 **SIGNING OF AGREEMENT**

19.1 When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Bid Agreement with all other written Contract Documents attached. Within fifteen days thereafter Contractor shall sign and deliver the required number of counterparts of the Bid Agreement and attached documents to Owner with the required Bonds. Within ten days thereafter Owner shall deliver one fully signed counterpart to Contractor.

20.0 **WARRANTY PERIOD**

20.1 Contractor hereby agrees to warranty his work for a period of one (1) year for any deficiencies of materials and quality of workmanship.

21.0 **IMMIGRATION STATUS VERIFICATION**

21.1 The contractor shall comply with requirements of the Alabama Immigration Law, Act 2011-535 (also referred to as the "Beason-Hammon Alabama Taxpayer and Citizen Protection Act", or H.B. 658), as amended by Act No. 2012-491, including in part and effective January 1, 2012, enrollment in the E-Verify Program of the United States Department of Homeland Security.

21.2 The contractor's signed "E-Verify Memorandum of Understanding" will be required to be attached to any contract awarded.

21.3 General Contractors and Subcontractors shall be enrolled in, participate in and maintain compliance for the duration of this contract, and as otherwise required by statute.

22.0 **DISPUTE RESOLUTION**

22.1 In the event that a dispute arises related to this Contract, the City and Contractor agree to attempt to resolve such disputes in the following manner:

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to informal mediation between the parties which will be non-binding to resolve any dispute. If said matter cannot be resolved through informal mediation, then in that event, either party in this agreement can request formal non-binding mediation. If the parties do not resolve a dispute through mediation, the method of binding resolution should be the following: Litigation in a Court of competent Jurisdiction in Russell County, Alabama.

23.0 **PAYMENT**

23.1 The Owner agrees to pay the Contractor in progress payment on account of the Contract Sum to the Contractor. The total 100 graves will be divided into 10 groups of 10 graves. Upon satisfactory completion of each group as determined by the Owner, the Owner agrees to pay the Contractor 10% of the total Contract Amount. This shall continue until all 100 graves have been completed and 100% of the total Contract Amount paid to the Contractor by the Owner. Provided that an Application for Payment is received by the Owner not later than the 2nd day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30th day of the same month. If an Application for Payment is received by the Owner after the 2nd day of a month, payment shall be made by the Owner not later than thirty (30) days after the Owner receives the Application for Payment.

23.2 Applications for Payment shall show the percentage of completion of each portion of the Work. Once these percentages are verified by the Owner, payment shall be made by the Owner as stated above.

**OWNER'S INSTRUCTIONS TO CONTRACTOR CONCERNING
BONDS AND INSURANCE**

PROJECT: 2018 Cemetery Grave Repairs

OWNER: CITY OF PHENIX CITY, ALABAMA

ATTENTION: CONTRACTORS

The following are your instructions with respect to the requirements for Bonds and Insurance to be included in the Contract Documents for the above Project.

I. BID SECURITY

- a. Bid Security in the amount of five percent (5%) of Bidder's maximum bid, not to exceed \$10,000 and will be in the form of :
 - i. Bid Bond; the prescribed type of Bid Bond contained herein, or
 - ii. Bank Cashier's check drawn to the order of OWNER

II. CONSTRUCTION BONDS

- a. Construction Performance Bond in an amount equal to the Contract Price and Construction Payment Bond in an amount equal to at least fifty percent (50%) of the Contract Price

III. LIABILITY INSURANCE – Provide proof of liability insurance.

IV. MAINTENANCE BOND

- a. Maintenance Bond in the amount of twenty-five percent (25%) of the cost of the improvements to ensure compliance with one (1) year Warranty Period.

BID BOND FORM

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto _____ as Owner in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns. Signed, this _____ day of _____, 2018.

The condition of the above obligation is such that whereas the Principal has submitted to _____ a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the _____.

NOW, THEREFORE,

- a. If said Bid shall be rejected, or in the alternate.
- b. If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid.

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these payments to be signed by their proper officers, the day and year first set forth above.

Principal (L.S.)

Surety

(SEAL)

By: _____

CONTRACT FORM

THIS AGREEMENT, made this _____ day of _____, 2018 by and between the City of Phenix City, Alabama herein called the "Owner" acting through its Mayor and City Manager and _____ doing business as _____, in the County of _____ and State of _____, hereinafter referred to as "Contractor".

Insert "a corporation", "a partnership", or "an individual" as applicable.

WITNESSETH: That for and in consideration and payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction generally described as follows:

2018 Cemetery Grave Repairs

- Provide site safety and clean up supervision.
- Repair 100 graves as selected by Owner.
- Remove vault cover of damaged graves as selected by the Owner.
- Backfill graves and compact backfill to the Owner's satisfaction. (Backfill will be provided by the City.)
- Place perimeter bed of dry concrete mix to serve as a foundation and sealant for each vault cover.
- Place new concrete vault cover as close to flush with ground as possible on graves as selected by the Owner. Vault cover shall be 6 to 8 inches thick precast, of 5,000 psi compression strength and reinforced with either 6 inch X 6 inch 10 gauge concrete reinforcing wire or fiber mesh.
- Backfill around sides of grave liner cover so that the Owner may grass it.
- The Contractor shall not perform any work during funerals. The Owner will provide a twenty four (24) hour notice of funerals during the 180 days allotted in this Contract.

for the lump sum of: \$ _____ (dollars)

The bid also shall include all overhead, profit, insurance, etc. to cover the finished work called for.

Bidder understands that the Owner reserves the right to waive any informality, or to reject any or all bids, and to award the contract to the lowest and most responsible bidder. All bidders shall submit upon request a list of projects "successfully completed" in the last 2 years, having the same scope of work and approximate construction cost as specified in this project. All bidders must comply with requirements of the Contractor's Licensing Law of the State of Alabama, can be certified for the type of work on which the proposal is submitted and have or obtain a City of Phenix City Business License. Each bidder must deposit with their bid, security in the amount, form and subject to the conditions provided in the Instruction to Bidders.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

Bidder, by making their bid, acknowledges that they have read and understand the Bid and Contract Documents and that they have visited the site, familiarized themselves with all conditions, ordinances, and permit requirements that may affect cost, progress, and performance for undertaking and performing the necessary work.

The undersigned also declares that neither the contractor nor any of its employees, agents, intended suppliers or subcontractors have relied upon any verbal representations, allegedly authorized or unauthorized from the Owner, its employees or agents, including engineers, in preparing the proposal, and that the entire proposal itself is based solely upon the Construction Contract Documents bound herein together with any properly issued written addenda and not upon any other written representation.

By signing this contract, 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 any 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.

Upon receipt of written notice of the acceptance of this bid, bidder will execute the formal contract within 15 days and deliver a Surety Bond or Bonds as required by the Contract Documents. The bid security attached in the sum of FIVE PERCENT (5%), not to exceed \$10,000, OF BID, \$_____ is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By _____
(Typed or Printed Name)

Title _____

(Company Name)

License No.

(Company Address)

(Business Address & Zip Code)

Telephone No.

Attested by: _____

(Corporate Seal)

BID AGREEMENT

Proposal of _____ (hereinafter called "BIDDER"), organized and existing under the laws of the State of _____ doing business as _____.

To the **CITY OF PHENIX CITY, ALABAMA** (hereinafter called "OWNER"):

In compliance with your Request for Proposal, BIDDER hereby proposes to perform all WORK for the construction of **2018 Cemetery Grave Repairs** in strict accordance with the CONTRACT DOCUMENTS within the time and price set forth therein.

By submission of this BID, each BIDDER certifies, and in the case of a joint BID each party thereto certifies as to its own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

BIDDER hereby agrees to commence WORK under this contract on or before a date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT within **180** consecutive calendar days thereafter. BIDDER further agrees to pay as liquidated damages, the sum of **\$100.00** for each consecutive calendar day thereafter.

BIDDER acknowledges receipt of the CONTRACT DOCUMENTS and PROPOSAL.

By: _____

Title: _____

Company Name: _____

Date: _____

Insert "a corporation", "a partnership", or "an individual" as applicable.

CONSTRUCTION PERFORMANCE BOND

BOND NO. _____

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR: (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER: (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

Alabama Agent: _____

Address: _____

Phone No.: _____

- 1.0 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
- 2.0 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
- 3.0 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
- 4.0 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 - 4.4.1 After investigation, determine the amount for which it may be liable to the owner and, as soon as practicable after the amount is determined, tender payment therefore to the Owner; or
 - 4.4.2 Deny liability in whole or in part and notify the Owner citing reasons therefore.
- 5.0 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in

Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

- 6.0 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2 or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
- 7.0 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
- 8.0 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase order and other obligations.
- 9.0 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in Russell County, Alabama and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 10.0 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
- 11.0 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
- 12.0 Definitions
 - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

- 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
- 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

CONTRACT

Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND

Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal (Seal)

Surety's Name and Corporate Seal (Seal)

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Provide execution by additional parties, such as joint ventures, if necessary.

- 1.0 Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
- 2.0 With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
- 3.0 With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
- 4.0 Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:
 - 4.2.1.1 Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 - 4.2.1.2 Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 - 4.2.1.3 Not having been paid within the above 30 days, having sent a written notice to Surety (at the address described in Paragraph 12) and having sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and having enclosed a copy of the previous written notice furnished to Contractor.
- 5.0 If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety that is sufficient compliance.
- 6.0 Reserved.
- 7.0 Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
- 8.0 Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
- 9.0 Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this

Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

- 1.0 Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.
- 2.0 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 3.0 Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
- 4.0 When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted here from and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
- 5.0 Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
- 6.0 Definitions
 - 6.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 6.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 6.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (*Name, Address, and Telephone*)

Surety Agency or Broker:

Owner's Representative (*Engineer or other*):

WARRANTY BOND

KNOW ALL PERSONS BY THESE PRESENTS, that

WHEREAS, the CITY OF PHENIX CITY, (hereinafter referred to as "City") and _____, (hereinafter referred to as "Principal") have entered into an Agreement for the construction of 2018 Cemetery Grave Repairs which included:

- Provide site safety and clean up supervision.
- Repair eighty (99) graves as selected by Owner.
- Remove vault cover of damaged graves as selected by the Owner.
- Backfill graves and compact backfill to the Owner's satisfaction. (Backfill will be provided by the City.)
- Place perimeter bed of dry concrete mix to serve as a foundation and sealant for each vault cover.
- Place new concrete vault cover as close to flush with ground as possible on graves as selected by the Owner. Vault cover shall be 6 to 8 inches thick precast, of 5,000 psi compression strength and reinforced with either 6 inch X 6 inch 10 gauge concrete reinforcing wire or fiber mesh.
- Backfill around sides of grave liner cover so that the Owner may grass it.

WHEREAS, Principal is required under the terms of the Agreement to furnish warranty security for the work performed pursuant to the Agreement in the amount of [\$_____] to guarantee replacement and repair of the improvements as described in the Agreement for a period of one year following the date of recordation of the notice of acceptance of the Improvements against any defective work or labor done, or defective materials furnished.

NOW, THEREFORE, we, the Principal, and _____ as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$_____) lawful money of the United States, being not less than 25 percent (25%) of the amount payable by the terms of the Contract, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such that if Principal shall indemnify City for all loss that City may sustain by reason of any defective materials or workmanship which become apparent during the period of one year from and after acceptance of the improvements by the City Council of City, then this obligation shall be null and void; otherwise, this obligation shall remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees incurred by City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing the City's rights against the others.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City or its successors or assigns.

Surety shall provide the City with thirty (30) days' written notice of Principal's default prior to Surety terminating, suspending or revoking the bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this ____ day of _____, 2018, the name and corporate seal of each corporate body being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Principal)

Signature

Print Name

Title

Note:

To be signed by Principal and Surety and acknowledgment and notarial seal attached. _____

(Surety)

(Address)

Signature

Print Name

Title

NOTICE OF AWARD

To: _____

Date: _____

Project: 2018 Cemetery Grave Repairs
for the City of Phenix City, AL

Project No: _____

The Owner has considered the BID submitted by you for the above described WORK in response to its Request for Proposal dated _____, 2018, and Instructions to Bidders.

You are hereby notified that your BID has been accepted in the amount of \$_____.

You are required by the Instruction to Bidders to execute the Bid Agreement and furnish the required CONTRACTOR'S Performance BOND and certificates of insurance within fifteen (15) calendar days from the date of this Notice to you.

If you fail to execute said Bid Agreement and to furnish said BOND within fifteen (15) days from the date of rights as may be granted by law.

CITY OF PHENIX CITY, ALABAMA
Owner

CITY OF PHENIX CITY, ALABAMA
Owner

By: _____
Eddie N. Lowe

By: _____
Wallace B. Hunter

Title: Mayor

Title: City Manager

Attest: _____
City Clerk

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by _____
this _____ day of _____, 2018.

Contractor

By _____

Title _____

NOTICE TO PROCEED

To: _____

Date: _____

Project: 2018 Cemetery Grave Repairs
for the City of Phenix City, AL

Project No: _____

You are hereby notified to commence WORK in accordance with the Bid Agreement dated _____, on or before _____, and you are to complete the WORK within 180 calendar days thereafter. The date of completion of all WORK is therefore _____.

CITY OF PHENIX CITY, ALABAMA
Owner

CITY OF PHENIX CITY, ALABAMA
Owner

By: _____
Eddie N. Lowe

By: _____
Wallace B. Hunter

Title: Mayor

Title: City Manager

Attest: _____
City Clerk

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____
this _____ day of _____, 2018.

Contractor

By _____

Title _____