

CITY OF TUSCALOOSA, ALABAMA
CONTRACT DOCUMENT

PROJECT: TICKET TAKERS, USHERS, AND CHAIR SET-UP AND SUPERVISION
OF SET-UP AT THE TUSCALOOSA AMPHITHEATER

PROJECT NUMBER: A16-0237

FOR: ARTS AND ENTERTAINMENT
(CITY DEPARTMENT)

(2016)

STATE OF ALABAMA)
TUSCALOOSA COUNTY)
CITY OF TUSCALOOSA)

CITY OF TUSCALOOSA CONTRACT DOCUMENTS

**ADVERTISEMENT AND NOTICE FOR BIDS
(2016)**

Sealed bids will be received by the City of Tuscaloosa, Alabama, a Municipal Corporation, in the Council Chamber in the City Hall, 2201 University Boulevard, on the 4th day of March, 2016, until 10:00, a.m., o'clock, local time, and then publicly opened and read for the furnishing of all labor and material (where required) and equipment for performing a project according to the plans, details, specifications and Contract Documents.

Award of the contract will be made within forty-five (45) calendar days from the date of the bid opening.

1. The Project:

A. The Project shall be known as TICKET TAKERS, USHERS, AND PERSONNEL FOR CHAIR SET-UP AND SUPERVISION OF SET-UP AT THE TUSCALOOSA AMPHITHEATER, and the general character of said project shall consist of the following:

Contractor will provide the services to provide ticket takers, ushers, and personnel chair set-up and supervision for set-up personnel at the Tuscaloosa Amphitheater.

B. The approximate quantities of said Project are as follows:

See Contractor scope of services.

C. Special instructions are as follows:

Bids will be evaluated based upon hourly rates, as well as various factors that the City will use in determining which contractors are responsible, which may include consideration of the pecuniary ability of bidders to perform the contract, and also factors to ascertain which bidders, in the point of skill, ability, and integrity would be most likely to do faithful, conscientious work, and to fulfill the terms of the contract.

D. The City will furnish the following:

We provide uniforms, flashlights, stamps, ticket scanners, bibs and booklets with our maps and emergency procedures etc.

E. Contract Term: From the date stated in the Notice to Proceed, will be 365 consecutive calendar days. The City reserves the right to elect to extend the contract for up to two additional one-year terms.

2. Plans and Specifications:

Specifications and all related Contract Documents are available and open for public inspection at the office of City Attorney, 2201 University Blvd., located at Tuscaloosa, Alabama, 35401.

- A. Plans, specifications and Contract Documents may be obtained at the above location upon the deposit of \$ n/a, which amount does not exceed twice the cost of printing, reproduction, handling and distribution of each set of such documents. Deposits by prime Contractor bidders are refundable in full upon return of all documents in reusable condition within ten (10) days of bid opening. Additional sets of bid documents for prime Contractor bidders, subcontractors, vendors or dealers may be obtained upon payment of the same deposit. Such deposits will be refunded, less the cost of printing, reproduction, handling and distribution, if all the documents are returned in reusable condition within ten (10) days of bid opening.
- B. Contractors may also view bid documents on the City's website, <http://www.tuscaloosa.com>, or call 205-278-5140 to obtain bid documents (reference file no.: A16-0237).

3. Qualification of Bidders:

- A. All bidders must be responsible, meeting the criteria and requirements set forth in the Instructions to Bidders and bid proposal.
- B. Prequalification of Bidders IS _____; IS NOT x required.

If prequalification of bidders is indicated to be required by the preceding sentence, then written prequalification information is available for review at the same office where plans, specifications and Contract Documents are available.
- C. The City may not enter into a contract with a non-resident corporation or entity which is not qualified under State law to do business in the State of Alabama.
- D. All bidders shall possess all other licenses and/or permits required by applicable law, rule or regulation for the performance of the work.
- E. The City reserves the right to reject all bids and/or reject and rebid the Project should it determine the same is in the best interest of the City.

4. Bid Bonds: Each bidder must submit with its bid a cashier's check drawn on an Alabama bank or a fully executed bid bond on the form that is contained in the Contract Documents executed by a surety company duly authorized and qualified to make bond in the State of Alabama. All bonds, sureties and/or cashier checks will be made payable to the City for an amount not less than 5 percent of the estimated cost of the Project or of the total bid in the proposal, but in no event more than \$10,000.00.

5. Pre-Bid Conference: A Pre-Bid Conference is not required for this Project.

NOTE: All bidders are advised to carefully read the Instructions to Bidders contained in the Contract Documents, which provisions and requirements are adopted herein by reference.

**CITY OF TUSCALOOSA, ALABAMA,
A MUNICIPAL CORPORATION
Walter Maddox, Mayor**

CITY OF TUSCALOOSA CONTRACT DOCUMENTS

INSTRUCTION TO BIDDERS (2016)

NOTE: THIS DOCUMENT CONTAINS IMPORTANT BIDDING AND CONTRACTING INFORMATION. ALL POTENTIAL BIDDERS SHOULD READ IT THOROUGHLY

1. Intention: The Advertisement for Bids, Instruction to Bidders, Contract Agreement, any modifications or supplemental conditions to the Contract Agreement, Bid Proposal, and the Plans and Specifications are interrelated and apply to the complete work to which they relate.

2. Definitions: Where the following words, or the pronouns used in their stead, occur herein, they shall have the following meaning:

"Awarding Authority" shall mean the City of Tuscaloosa, Alabama.

"Bidder" shall mean any person, firm or corporation, that is responsible, submitting a responsive bid for the Project contemplated by the contract documents, who meets the requirements set forth in the contract documents, maintains a permanent place of business, has adequate forces and equipment to perform the work on the Project properly and within the time limit that is established, has sufficient experience in the type work provided for in the contract documents and has adequate financial status and resources to meet its obligations contingent to the work.

"City" or "Owner" shall mean the City of Tuscaloosa, Alabama, as the awarding authority or its authorized and legal representatives.

"Contractor" shall mean initially the successful or probable low bidder and then the party of the first part to the construction agreement or the legally authorized representatives of such party, including a trade contractor.

"Gender": a word importing one gender shall if appropriate extend to and be applied to the other gender. The masculine shall include the feminine and vice versa, unless the context clearly indicates otherwise.

"Project" shall mean the work to which these Contract Documents relate, including the labor, materials and all work to be done by Contractor that is the subject of the bid, plans, specifications and contract documents.

"Public Property" Real property which the awarding authority owns or has contractual right to own or purchase, including easements, rights-of-way, or otherwise.

"Responsible Bidder" shall mean a bidder who, among other qualities determined necessary for performance, is competent, experienced and financially able to perform the contract.

"Responsive Bidder" shall mean a bidder who submits a bid that complies with the terms and conditions of the invitation for bids, including plans, drawings, specifications and other provisions of the contract documents.

"Singular/Plural" the singular shall include the plural and vice versa, unless the context clearly indicates otherwise.

"Unbalanced Bid" Unbalanced bids may be considered non-responsive and may be subject to rejection. An unbalanced bid includes but is not limited to one which results in a substantial advance payment to the contractor.

3. Work to be Performed: The City contemplates a project as generally described in the Advertisement for Bid and as more particularly described, shown and depicted in the specifications and in the contract documents.

4. Bidding, Generally:

- A. All bids must be made upon the bid proposal forms contained in the contract documents, shall state the amount bid for each item as shown therein and all blanks shall be properly filled in and bid proposal executed as required.
- B. Any bidder may withdraw his or its bid, either personally or by telegraphic or written request (not by facsimile), at any time prior to the scheduled opening time for receipt of bids. Except as provided in Ala. Code §39-2-11(b)(c)(d), no bid may be withdrawn after opening of bids prior to the time of returning bid bonds as provided for herein.
- C. Any unauthorized conditions, limitations or provisos attached to the bid proposal, except as otherwise provided herein, will render a bid proposal informal and may cause its rejection. Unbalanced bids may be subject to rejection.
- D. All bids will be opened in public at the time and date specified in the Notice of Advertisement for bids, unless otherwise altered by addendum. All bidders are invited to be present at the opening of bids. No bids will be received after the time established for the opening of bids.
- E. All bids are to be enclosed in a sealed envelope addressed to the City of Tuscaloosa, P. O. Box 2089, Tuscaloosa, Alabama and/or hand delivered to the City Clerk, 2201 University Boulevard, City Hall, Tuscaloosa, Alabama. All bids are to be marked to indicate clearly the Project to which it applies and include the following language: "Bid Enclosed" and "Attention City Clerk."

5. Responsible, responsive bidders: The City reserves the right to reject any bid that is submitted by a bidder that is determined by the City to not be a responsible bidder or whose bid proposal is not responsive.

In determining whether a bidder or bid is responsible and/or responsive, the City reserves the right to also request and consider the following factors:

- A. Types or kinds of materials or items best suited to the City's needs for the Project.
- B. A current financial statement of the bidder and/ or bonding capability or limits.
- C. An accurate inventory of equipment to be used on the Project for a list of key personnel to be used on the Project and detailed histories of their experience.

- D. A list of similar work performed by any person, firm, or corporation with the same name as the name or any of the names in the bidder's proposal within the last five (5) years.
- E. A list of five (5) references familiar with the bidder's competence, experience, capabilities, skill and integrity.
- F. A statement of bidder pertaining to bankruptcies, judgments, liens or litigation within the last five (5) years. Such statement shall also apply to each company, officer and the key personnel on the Project.
- G. Bidder's performance and prosecution of past projects for the City.
- H. An unbalanced bid.
- I. Other information supplied in the bid proposal.

The City may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any Proposal if the evidence submitted by, or investigation of, such Bidder fails to satisfy the City that such Bidder is properly qualified to carry out the obligations of the Contract and complete the work contemplated therein.

6. Bid Bonds: Each bidder must submit with its bid, a cashiers check drawn on an Alabama bank, made payable to the City of Tuscaloosa or a fully executed bid bond on the form that is contained in the contract documents, executed by a surety company duly authorized and qualified to make bond in the State of Alabama. All bonds and/or cashiers check will be made payable to the City of Tuscaloosa for an amount not less than five (5) percent of the City's or its engineers or architects estimated cost of the Project or of the total bid in the proposal, but in no event more than \$10,000.00. The purpose of said bid bond is to insure that the successful bidder will enter into a written contract with the City for the Project on the form included in the contract documents and furnish a performance bond and payment bond executed by a surety company duly authorized and qualified to make such bond in the State of Alabama, in the amount required and provide evidence of insurance as required by the bid documents within time specified or if no time is specified, within thirty (30) days after the forms have been presented to the successful bidder for signature. Provided; however, if extenuating circumstances prevail, the City may grant an extension of time not exceeding five (5) days for the return of the contract bonds and evidence of insurance.

The price or cost of all items bid shall remain in effect for a period of fifty (50) days after Notice of Award.

7. Return of Bid Bonds: All bid bonds, except those of the three lowest bona fide bidders, will be returned immediately after bids have been checked, tabulated and the relation of the bids established. The bid bonds of the three lowest bidders may be retained and if so will be returned as soon as the contract bonds and the contract documents of the successful bidder have been approved and properly executed.

In the event it is necessary to defer a contract award for longer than fifteen (15) days, after opening of bids, then all bid bonds, except that of the potential successful bidders will be returned.

Award of the contract will be made within the time specified after the opening of bids. In the event no award is made within such time, all bids may be rejected and all bonds returned.

Provided; however, the potentially successful bidder may enter into a written agreement with the City for an extension of time for consideration of its bid, in which case, the bidder's bond shall remain in full force and effect or the City may permit said bidder to substitute a satisfactory surety for the cashier's check if submitted as a guaranty to the bid bond.

8. Forfeiture of Bid Bonds: Should the successful bidder or bidders to whom a contract is awarded fail to execute a contract(s) and furnish acceptable contract securities and evidence of insurance, as required, within thirty (30) days after the prescribed forms have been presented to him/her, the City may retain from the proposal guaranty, if it is a cashier's check or recovered from the principal or the sureties, if the guaranty is a bid bond, the difference between the amount of the contract as awarded, and the amount of the proposals of the new lowest bidder. If no other bids are received, the full amount of the proposal guaranty may be so retained and recovered as liquidated damages for such default. Any sum so retained or recovered shall be the property of the awarding authority.

9. Consideration of Bid Proposals:

- A. Generally: The contract will be awarded to the lowest responsible and responsive bidder, unless the City determines that all the bids are unreasonable or that it is not in the best interest of the City to accept any of the bids.

Award of the contract will be made on the basis of the lowest actual bid amount for the contract, which is defined as the total of the bid and/or extended total amounts for unit price items, plus requested and accepted additive or deductive alternates, pursuant to the provisions hereof.

The City reserves the right to reject all bids and/or reject and rebid the Project should it determine the same is in the best interest of the City.

- B. Minor irregularities as determined by the City or its representatives, will not cause a bid to be non-responsive and may be waived by the City.
- C. Bidder must possess all licenses and permits required by applicable law, rule or regulation for the performance of the work prior to bidding.
- D. Where the City elects to prequalify contractors prior to bidding, it shall be understood that such prequalification may be general in nature and shall not limit the City's right to revoke such prequalification pursuant to Ala. Code §39-2-4(d) (1975).
- E. Joint ventures shall not generally be considered acceptable bids without special waiver from the City, which must be requested in writing at least thirty (30) days prior to bid opening.
- G. No Bids or Only One Bid: In the event no bid proposals or only one bid proposal is received in response to the City's Advertisement for Bids at the time stated for the opening of bids, the City may elect at its discretion, any of the following options:

- 1) Advertise for and seek other competitive bids.

- 2) Direct that the work shall be done by force account under its direction and control.
- 3) Negotiate for the work through the receipt of informal bids. Provided; however, where only one responsible and responsive bid has been received, any negotiation for the work shall be for a price lower than that bid.

10. Materials and Work: All materials, which the engineering plans specify or are required, will be installed as they are shown on the drawings, plans and/or specs.

- A. Brand names, catalog numbers, weights, etc., are used to indicate levels of quality only and are not intended to restrict the bidding. If bidding on an item of another brand or manufacturer than that specified, bidder's proposal should be accompanied by brochures or other pertinent literature giving detailed specifications of the item(s) on which the proposal is being made. Bids or proposals received without sufficient literature to determine equal quality may not be considered. Final determination as to equal quality will be made by the City.
- B. Quantities: The quantities shown in the proposal shall be considered by the contractor as the quantities required to complete the work for the purpose of bidding. Should the actual quantities required in the construction of the work be greater or less than the quantities shown, an amount equal to the difference of quantities at the unit prices bid for the items will be added to or deducted from the contract total.
- C. Adjustment Items: During the course of work, the prices bid for adjustment items may be used by the City to increase or decrease the total cost for the work if the quantity of work exceeds or is less than the amount shown on plans.
- D. The attention of all bidders is called to the fact that all or a portion of this Project may be federally funded and if so, the special conditions of a federally funded contract including federal labor standard provisions, the minimum wage rates included in the contract documents, plans and specifications must be followed.
- E. Unless waived by the City, the Contractor shall perform on the sites and with his own organization and equipment, at least fifty percent of the total amount of the work to be performed under this Contract. The Contractor may only subcontract a maximum of fifty (50%) percent of the work without City consent. If, during the progress of the work hereunder, the Contractor requests a reduction of such percentage, and the City representative determines that it would be to the City's advantage, the percentage of the labor required to be performed by the Contractor's own organization may be reduced; PROVIDED prior written approval of such reduction is obtained by the Contractor from the City.

NOTE: Bidders are advised to carefully review all other elements of the contract documents for more details concerning requirements for performing work on the Project.

- F. In the event the City elects to utilize a Purchasing Agent Appointment agreement in conjunction with this contract, the Contractor will be required to execute such an agreement and perform in accordance therewith.

11. Execution of Contract, Notice to Proceed: Award of the contract will be made within the time specified after the opening of bids.

The bidder to whom award is made shall enter into a written contract for the Project with the City on the forms provided in the contract documents, furnish the required performance and labor and material bonds with proper surety and furnish the evidence of insurance as required, all within thirty (30) days of presentation of the prescribed forms to the bidder. If extenuating circumstances prevail, the City may grant an extension of time not exceeding five (5) days for the return of the contract, required bonds and evidence of insurance.

Within twenty (20) days after presentation by the bidder to the City, the City shall review the bonds, surety and evidence of insurance to ascertain whether they meet the requirements of the contract documents, and if such requirements have been met the City shall complete the execution of the contract.

A notice to proceed order will be issued by the City or its representatives within fifteen (15) days after final execution of the contract by the City. The Contractor shall begin work on the date specified in the Notice to Proceed.

12. Performance Bond: Within thirty (30) days after the prescribed forms have been presented, the successful bidder shall execute a performance bond with good and sufficient surety from a company duly authorized and qualified to make such bond in the State of Alabama, a performance bond made payable to the City of Tuscaloosa, with a penalty equal to \$50,000.

13. Surety and Insurer Qualifications: All certificates of insurance and bonds (furnished in connection with the work to be performed under this contract) shall be countersigned by a licensed agent residing and engaged in doing business in the State of Alabama. The surety and insurer shall be licensed and authorized to do business in the State of Alabama. The surety companies on bonds shall be rated A- or better by A. M. BEST and listed on the United States Treasury Department 570 list.

14. Power-of-Attorney: The attorney-in-fact (resident agent) who executes the performance bond and/or payment bond on behalf of the surety must attach a notarized copy of his or her power-of-attorney as evidence of his authority to bind the surety of the date of execution of the bonds. Certification by a resident agent authorized to do business in Alabama is required.

15. Insurance: The successful contractor shall file with the City, at the time of delivery of the signed contract, satisfactory evidence of insurance, the requirements as set forth in the contract agreement. Satisfactory evidence of insurance shall include at a minimum, the insurers standard "Certificate of Insurance" (modified pursuant to insurance requirements of the contract agreement) and the agents verification of insurance as required by Section 26. If the City deems that additional evidence or clarification, etc., of insurance is appropriate, the bidder shall promptly furnish the same to the City upon request.

16. Examination of Contract Documents and of the Site of the Project: Before submitting a bid proposal for the Project, each bidder shall carefully examine the Contract Documents, including but not limited to plans, drawings, specifications, contract, etc., visit the site, and satisfy itself as to the nature and location of the Project, and the general and local conditions, including weather, the general character of the site or building, the character and extent of existing work within or adjacent to the site, any other work being performed or proposed thereon at the time of submission of their bids. It shall obtain full knowledge as to transportation, disposal, handling, and storage of materials, availability of water, electric power, and all other facilities in the area which will have a bearing on the performance of the Project for which they

submit their proposals. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and visit and has judged for and satisfied himself as to conditions to be encountered regarding the character, difficulties, quality, and quantities of work to be performed and the material and equipment to be furnished, and as to the contract requirements and contingencies involved. It shall be the Bidder's obligation to verify for himself and to his complete satisfaction, all information concerning site and surface conditions.

17. Interpretation of Plans and Specifications: If any bidder contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of plans, specifications, or other proposed contract documents, he may submit to the Engineer/Architect or Construction Manager, as the case may be, a written request for an interpretation prior to bid opening. The bidder submitting the request will be responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by written addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of such documents. The City, Construction Manager or Engineer/Architect will not be responsible for any other explanations or interpretations of the proposed documents.

18. Applicable Laws: Each Bidder shall inform himself of, and the Bidder awarded a contract shall comply with, federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning minimum wage rates, the use of domestic products, U.S. steel and resident labor, non-discrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees and similar subjects. Certain statutory requirements are summarized immediately hereinafter. The attention of all bidders is called to the fact that the work will be subject to compliance with all applicable City building and technical codes and will be subject, in addition to all other inspections, to inspection by a representative of the City of Tuscaloosa Building Inspections Department.

19. Agent's Verification of Insurance. This form or a letter equivalent from the Insurance Agent should be submitted with each Contractor's Bid, or in the alternative, Contractor may provide a copy of the insurance policy or policies reflecting the coverages required herein.

20. Compliance with Immigration Law.

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 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.

[END INSTRUCTION TO BIDDERS—OFFICE OF THE CITY ATTORNEY]

PROPOSAL (BID)
(2016)

NOTE TO BIDDER: Use BLACK ink for completing this Proposal form.

To: _____
Address: _____

Project Title: _____
Project No.: _____

BIDDER:

The name of the Bidder submitting this Proposal is _____
doing business at _____, _____, _____
Street City State Zip

which is the address to which all communications concerned with this Proposal and with the Contract shall be sent.

Bidder's contact person for additional information on this Proposal:

Name: _____ **Telephone:** _____

ADDENDA:

The Bidder hereby acknowledges that he has received Addenda No's. _____,
_____, _____, _____, _____ (Bidder shall Insert
No. of each Addendum received) and agrees that all addenda issued are hereby made part of
the Contract Documents, and the Bidder further agrees that his Proposal(s) includes all impacts
resulting from said addenda.

UNIT PRICES:

Where the Project is bid in unit prices then Bidder agrees to perform the work in the
stated quantities of the materials at the unit prices so bid, the cumulative total of which
constitutes the base bid set forth below, and to accept as final payment for the work performed
under this Project as herein specified the extension of each such unit price for the quantities
actually installed in accordance with the following or attached unit price schedule.

An unbalanced bid, as herein defined, may be considered non-responsive. A bid
resulting in a substantial advance payment on an item that is for a single lump sum payment
may be considered non responsive.

Prices for mobilization and demobilization combined shall not exceed 5% of the total base bid unless a reasonable explanation is provided in writing with the bid and accepted by the Owner. Lump sum payments and unit price bids for a single or lump sum payment may be spread over the course of the period of work until the line item is complete at owner's option.

CONTRACTOR'S BID [MUST BE COMPLETED IN ENTIRETY]:

1. Contractor Hourly Rates for Event Services

- a. Supervisor
\$ _____
- b. Lead
\$ _____
- c. Usher
\$ _____
- d. Ticket Taker
\$ _____

2. Contractor Hourly Rates for Event Set-Up

- a. Supervisor
\$ _____
- b. Fork-lift Operator
\$ _____
- c. Chair Setter
\$ _____

[END CONTRACTOR'S BID]

The following information must also be submitted with the bid on the date indicated above, and in the order indicated below:

Experience and Qualifications. Include a detailed statement of the business's qualifications to perform the work and years in business. The statement should include the following:

1. The general experience of the contractor.
2. Provide examples of three (3) projects that the contractor has completed within the last five (5) years of equal or greater size/scope as required by the City's scope of services, and professional references with contact information to correspond with the submitted projects.
3. The specific experience of all proposed personnel, their qualifications, years of experience, and availability to perform the work and services to be provided.
4. A statement as to professional standing including any pending controversies outstanding. If none exists, such a statement should be made.
5. A listing of the number of personnel employed by your company, and the number that can be dedicated to Tuscaloosa Amphitheater.
6. A listing of all current contracts held by your company.
- 7. The success of the Amphitheater is largely contingent upon the professionalism of your employees, as you will have direct contact with Amphitheater patrons. Unless your company is sufficiently resourced to meet the City's high performance standards, do not submit a bid. Please include a statement certifying that your company possesses adequate resources and personnel to meet the high demands required by the City of Tuscaloosa.**
- 8. Contractor must be able to begin work immediately. Please include a statement that this is acceptable.**
9. The contract term is expected to be for a period of 1 year, with the possible option to renew for an additional either 1-year or 2-year term. Total contract term shall not exceed three years.

Bids will be evaluated based upon hourly rates, as well as various factors that the City will use in determining which contractors are responsible, which may include consideration of the pecuniary ability of bidders to perform the contract, and also factors to ascertain which bidders, in the point of skill, ability, and integrity would be most likely to do faithful, conscientious work, and to fulfill the terms of the contract.

BIDDER'S DECLARATION AND UNDERSTANDING:

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the City, and that the Proposal is made without any connection or collusion with any person submitting another Proposal on this Contract.

The Bidder further agrees that he has checked and verified the completeness of the Contract Documents and that he has exercised his own judgment regarding the interpretation of subsurface information utilizing all pertinent data in arriving at his conclusions. The Bidder shall be fully responsible for any damages or liability arising out of his or his subcontractors prebid investigations.

The Bidder understands and agrees that if a Contract is awarded, the City may elect to award all schedules under one Contract, lump sum, separately, or in any combination that best serves the interests of the City.

The Bidder further declares that he has carefully examined the Contract documents for the construction of the Project and has checked and verified the completeness of the Contract Documents, that he has personally inspected the site, that he has satisfied himself as to the quantities involved, including materials and equipment, and conditions of work involved. Bidder further declares that he is fully aware of the fact that the description of the work, quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents. Bidder also declares that this Proposal is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Proposal.

The Bidder declares that he understands and agrees that the quantities shown in the Advertisement for Bids and in the Proposal are approximate only and are subject to either increase or decrease; and that should quantities be decreased, he also understands and agrees that payment will be made on actual quantities installed at the unit bid prices, and will make no claim for anticipated profits for any decreases in the quantities. Actual quantities will be determined upon completion of the work.

START OF CONSTRUCTION AND CONTRACT COMPLETION TIME:

The Bidder further agrees to begin work on the date stated in the Notice to Proceed and to fully complete the work, in all respects, within the time specified in the contract documents for completion.

EXPERIENCE OF BIDDER:

Unless advised by the awarding authority in the Advertisement for Bids that the same is not required, the Bidder submits the following list of at least three clients for whom projects involving construction of similar projects have been performed within the past 5 years.

1.

Name of Client		Telephone Number
Street		City
Facility	Size	Date
Name of Engineer/Architect		Telephone Number
Name of Engineering Firm		

2.

Name of Client		Telephone Number
Street		City
Facility	Size	Date
Name of Engineer/Architect		Telephone Number
Name of Engineering Firm		

3.

Name of Client		Telephone Number
Street		City
Facility	Size	Date
Name of Engineer/Architect		Telephone Number
Name of Engineering Firm		

[END OF BID PROPOSAL—OFFICE OF THE CITY ATTORNEY]

STATE OF ALABAMA)
TUSCALOOSA COUNTY)

**CITY OF TUSCALOOSA CONTRACT DOCUMENTS
BID BOND TO THE CITY OF TUSCALOOSA, ALABAMA
(2016)**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,
_____ as Principal; and

_____ as Surety, (**NOTE:** If cashier's check drawn on an Alabama Bank utilized in lieu of corporate surety, attach check as required by bid documents) are hereby held and firmly bound unto the City of Tuscaloosa, Alabama, a Municipal Corporation, as obligee, hereinafter called the City, in the sum of _____ Dollars (\$ _____) for the payment of which sum, well and truly to be made, the said Principal and Surety hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the City a certain Bid (Proposal), attached hereto and made a part hereof, to enter into a contract in writing with the City, for the following Project or portion thereof:

Project: _____

Location: _____

Architect or Engineer: _____

Project Number: _____

NOW, THEREFORE,

(a) If said Bid shall be rejected, or in the alternate,

(b) If said Bid shall be awarded and the Principal shall execute and deliver a contract in the Form of Agreement as included in the Contract Documents for the Project, and shall execute and deliver Performance Bond and Payment Bond in the Forms as attached to the Contract Documents executed by a surety company authorized and qualified to make such bonds in the State of Alabama and in the amounts as required by the Instructions to Bidders and submit the insurance certifications as required by the bid document and fulfill all other qualifications and requirements of the Contract Documents and bid specifications (all properly completed in accordance with said Bid), and shall in all other respects perform the agreement created by the acceptance of said Bid within thirty (30) days after the prescribed forms have been presented to Bidder for execution;

Then, this obligation shall be void, otherwise, the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal hereunder shall be the 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 in no way be impaired or affected by any extension of the time within which the City may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the above-bonded parties have executed this instrument under their several seals, this the _____ day of _____, 20____ the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

WITNESS:

PRINCIPAL:

_____ (SEAL)

By: _____

Title: _____

Address: _____

SURETY:

_____ (SEAL)

(Business Address)

ATTEST:

By: _____

Title: _____

Attorney in Fact

NOTE: Surety must be qualified and duly authorized to make bonds in the state. All Bonds and Sureties are subject to review and approval by the City Attorney. Valid current Power of Attorney for Corporate Surety must be attached.

NOTE: Bidder may submit a cashier's check drawn on an Alabama bank to the order of the City of Tuscaloosa equal to 5% of the amount bid, in lieu of a Corporate Surety, under the same terms.

[END DOCUMENT—OFFICE OF THE CITY ATTORNEY]

STATE OF ALABAMA)
TUSCALOOSA COUNTY)

**AGREEMENT TO PROVIDE SERVICES RELATED TO TICKET TAKERS, USHERS,
AND CHAIR SET-UP AT THE TUSCALOOSA AMPHITHEATER**

(A16-0237)

THIS AGREEMENT is entered into by and between the CITY OF TUSCALOOSA, Alabama, a Municipal Corporation, Post Office Box 2089, Tuscaloosa, Alabama 35403-2089, (hereinafter referred to as the "CLIENT" or "CITY") and _____, hereinafter referred to as "CONSULTANT"), on this _____ day of _____, 2016, as follows:

WHEREAS, the Client desires to have performed SERVICES RELATED TO TICKET TAKERS, USHERS, AND CHAIR SET-UP AT THE TUSCALOOSA AMPHITHEATER, which it believes will promote the efficient operation of government; and,

WHEREAS, Consultant has made a proposal to the Client to provide such professional consulting services and has represented to the Client that it is staffed with personnel knowledgeable and experienced in such matters as to be able to provide those services to the Client in a professional and competent manner; and,

WHEREAS, heretofore, the Client duly enacted a resolution authorizing execution of an agreement between the Client and Consultant, and the Client now desires to enter into a contract with Consultant as more particularly set forth herein; as follows:

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

NOW, THEREFORE, this agreement is made and entered into on the date first above written by and between the Client and Consultant; for the consideration as set forth herein as follows:

I. SCOPE OF SERVICES

Consultant agrees, for the consideration as stated herein, to provide services to the Client in regard to TICKET TAKERS, USHERS, AND CHAIR SET-UP AND SUPERVISION OF SET-UP AT THE TUSCALOOSA AMPHITHEATER as more particularly set forth in Consultant's proposal to Client dated _____, which is adopted herein by reference except to the extent of a conflict with the terms and conditions herein, in which case the provisions herein shall prevail. Generally the Project services shall include, but not be limited to the following:

See Project Specifications.

II. TIME OF PERFORMANCE

Consultant shall commence providing services pursuant to this agreement as of the date first above written and diligently and expeditiously conduct its works in such a manner as to complete its commitments for SERVICES RELATED TO TICKET TAKERS, USHERS, AND CHAIR SET-UP AND SUPERVISION OF SET-UP AT THE TUSCALOOSA AMPHITHEATER by one year from the notice to proceed. The contract may be renewed for up to a total term of three years provided both parties agree in writing. Consultant agrees and understands that time is of the essence in the performance of this agreement.

Consultant shall commence, carry on and complete the project with all practicable dispatch, in a sound, economical and efficient manner, in accordance with the provisions hereof and applicable laws. In accomplishing the project, Consultant shall take such steps as are appropriate to insure that the work involved is properly coordinated with related work and policies being carried on within the City.

Consultant shall provide services in the order indicated by Client.

III. COMPENSATION

The Client agrees to pay Consultant for the services as set forth herein as follows:

1. Contractor Hourly Rates for Event Services

a. Supervisor

\$ /hour

b. Lead

\$ /hour

c. Usher

\$ /hour

d. Ticket Taker

\$ /hour

2. Contractor Hourly Rates for Event Set-Up

a. Supervisor

\$ /hour

b. Fork-lift Operator

\$ /hour

c. Chair Setter

\$ /hour

Unless otherwise indicated above, Consultant will invoice Client monthly detailing the services performed on an hourly basis on behalf of Client. The invoice format shall be satisfactory to Client.

Client will remit payment to Consultant within forty-five (45) days from receipt of invoice.

Provided; however, the Client may delay payment for a reasonable time on all or any portion of an invoice, without the accrual of any interest or charges, on the basis of improper, contested or inadequate explanation of invoices by Consultant.

In the event of such disputed or contested invoice, only that portion so contested shall be withheld by the Client, and the undisputed portion shall be paid in accordance with the provisions herein. The Client will exercise reasonableness in contesting any invoice or portion thereof.

In the event Consultant is required by the scope of services to provide documents or testimony on behalf of the Client in response to claims, demands or actions against the Client, its officers, agents or employees by third parties, Consultant shall bill the Client for services rendered based on the then current professional fees and expenses incurred. Provided; however, in the event of a final adjudication by a court of competent jurisdiction that the services or any portion thereof provided by Consultant was not properly performed, then Consultant will refund to Client all sums paid Consultant for all work related to the testimony. No task will be undertaken by Consultant without prior notification to the Client. The provisions hereof are intended to apply only to third party actions based upon the Client's implementation of Consultant's report and findings and not in regard to claims or actions by or between the Client and Consultant.

Provided; however, nothing herein contained shall prevent the Client from utilizing any document studies, forms or other data or information otherwise resulting from the performance of this agreement by Consultant, in bringing, defending or otherwise assisting in litigation, claims, actions or demands undertaken or defended by the Client, without any additional cost to the Client.

In no event shall the making by the Client of any payment to Consultant constitute or be construed as a waiver by the Client of any breach of covenant, or any default which may exist on the part of Consultant and the making of any such payment by the Client while any such breach or default exists shall in no way impair or prejudice any rights or remedies available to the Client in respect to such breach or default.

IV. CLIENT RESPONSIBILITIES

In addition to paying Consultant for services according to the preceding paragraph, the Client shall have the following responsibilities to Consultant:

The Client shall provide for Consultant: access to its personnel, facilities, and materials including, but not necessarily limited to those things reasonably necessary for the contractor to complete the scope of services. We provide uniforms, flashlights, stamps, ticket scanners, bibs and booklets with our maps and emergency procedures.

Also, see project specifications.

V. LEVEL OF COMPETENCE

Consultant represents and warrants to the City that it and all of its employees that will be working on the Project for the Client are fully qualified and competent to perform all services required herein and that to the extent required, Consultant has or will secure at its own expenses, all personnel required in performing the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with the Client. All of the services required hereunder will be performed by Consultant or under its supervision and all personnel engaged in the work shall be fully qualified to perform such services.

Consultant represents and warrants to the Client that its Project Director for the performance of services by Consultant pursuant to the terms and conditions of this agreement shall be and remain Carol Mills, of Consultant's organization and there shall

be no change in the Project Director without the prior written consent of the Client's representative.

VI. MATERIALS / CONFIDENTIALITY

The Client agrees to cooperate with and provide Consultant with access to facilities and information within its reasonable possession and control, requested by Consultant for its review and use in performing the services herein. Provided; however, all such documents, information, results, memoranda and all other written or verbal information ("information") shall be held confidential by Consultant and any of its sub-consultants and shall not, without the prior written consent of the Client, be used for any purpose other than the performance of this agreement nor be disclosed to any other entity not connected with performance of this agreement. Upon completion of services, Consultant shall return all such information to the City. The City shall retain ownership of all such information and the same shall not be used by the Consultant for any purpose or purposes without the express written permission of the City. Consultant shall not use the City's name or insignia in any magazine, trade paper, newspaper or other medium without first obtaining the written consent of the City.

VII. INTELLECTUAL PROPERTY

The City and Consultant, jointly and separately, acknowledge and agree that the intellectual property of both parties shall remain owned by the respective party. With the exception of Consultant's periodic and final reports generated for performance of this agreement to or for the City, reports, memorandums, electronic mail, facsimile transmissions and other written and prepared documents shall be owned by the party who authored, generated or who originally possessed the same and nothing in this agreement shall contravene said rights.

VIII. INFORMATION AND REPORTS

Consultant shall, at such time and in such format as the Client's representative may require, furnish a final written report and such periodic reports concerning the status of the Project as may be requested by the Client's representative. We require a written report of all accidents and incidents to be submitted to the Amphitheater Supervisor within 24 hours of the event. Consultant shall furnish the Client, upon request, with copies of all documents and other material prepared or developed in relation with or as part of the Project. Such requests shall be reasonable and within normal business practices for such work. The City shall own and acquire all rights to the periodic and final report of Consultant.

IX. RECORDS AND INSPECTIONS

Consultant shall maintain complete and accurate records with respect to all matters performed pursuant to this agreement. The Client shall have free access at all proper times to such records and the right to examine and audit the same and to make transcripts therefrom and to inspect all program data, documents, proceedings and activities of Consultant. Such inspections shall not be in violation of confidentiality guarantees provided for herein. Promptly upon the Client's request, all documents, materials, information and writings and all copies thereof provided by the Client to the Consultant directly or indirectly shall be returned by Consultant to Client (if applicable).

X. COPYRIGHT INFORMATION

The Client acknowledges that with the exception of periodic and final reports, all intellectual property developed during the course of this agreement by Consultant shall belong exclusively to Consultant. However, the Client may utilize any of the foregoing for and on behalf of its internal operations, but will take steps reasonably necessary with its employees with respect to the use, copying, protection and security of the foregoing.

XI. APPLICABLE LAWS

Consultant shall register and comply with all State or Federal laws and/or regulations as they may relate to the services or activities of the Consultant to the City.

XII. INDEMNIFICATION

Each party shall generally be responsible for its own acts and will be responsible for all damages, costs, fees, and expenses, including attorney's fees and costs, which arise out of the performance of this agreement and which are due to that party's own negligence, carelessness, unskillfulness and other unlawful conduct and/or the negligence, carelessness or unskillfulness or other unlawful conduct of its respective officers, agents and/or employees acting in their official capacities. Provided; however, Consultant shall defend, indemnify and hold the Client, its officers, agents and employees free and harmless from and against any claims, demands, actions, damages, expenses, fees, liabilities and/or attorney's fees arising out of, by virtue of or associated with, any claims, demands or actions brought by third parties which are related in any way or are associated with the negligence, tortious acts or other unlawful conduct of Consultant or its respective agents, officers and employees in the performance of this agreement. In addition, the Client shall release and remise Consultant, its officers, agents and employees from and against any claims, demands, actions, damages, expenses, fees, liabilities and/or attorney's fees arising out of, by virtue of or associated with, any claims, demands or actions brought by third parties which are related in any way or are associated with the negligence, tortious acts or other unlawful conduct of the Client or its respective agents, officers and employees in the performance of this agreement.

XIII. TERMINATION

The Client reserves the right with or without cause, to terminate this agreement by giving written notice to Consultant of such termination at least fifteen (15) days before the effective date thereof. In the event of termination pursuant to this paragraph, Consultant

shall cease performing any work pursuant to this agreement and be entitled to compensation for services rendered through the effective date of termination.

XIV. INSURANCE

1. Insurance Required. The Contractor shall not commence work under this contract until it has obtained all insurance required by the Contract documents and such insurance has been accepted by the City. The Contractor shall maintain the required insurance during the term of the contract including any extensions of the term.

Insurance shall be written in comprehensive form by insurance companies rated A- or better by A. M. BEST and shall protect the Contractor and the City against claims for injuries to members of the public (including City employees) or damages to property of others (including City property) arising out of any act of the Contractor or any of its agents, employees or subcontractors and shall cover both on-site and off-site operations under this contract and insurance coverage shall extend to any motor vehicles or other related equipment, irrespective of whether the same is owned, non-owned or hired.

The obtaining and maintaining by Contractor and subcontractors of the insurance required herein does not relieve the Contractor of any responsibilities, obligations or duties to the City pursuant to this contract.

2. Additional Insurance. The Contractor shall have an insurance professional review the Contractor's activities in regard to the performance of this contract and the Contractor shall obtain any further or additional insurance or greater limits as recommended by the insurance professional.

3. Insurance Limits. Neither the setting of insurance limits or requirements nor the acceptance or approval of the same by the City imply or represent that the limits or the insurance carrier is sufficient or that such insurance actually has been obtained, that being the responsibility of the Contractor.

4. Subcontractors. The Contractor shall require all subcontractors to take out and maintain the type of insurance required herein to the extent of their involvement in the Project so

as to be adequate to protect against liability. In the event any work under this Contract is performed by a subcontractor(s), the Contractor shall remain responsible for any liability directly or indirectly arising out of the work performed under this Contract, regardless of whether or not such work is covered by the subcontractor's insurance. The Contractor shall not allow any subcontractor to commence work on the project until all similar insurance required of the subcontractor has been obtained. All subcontractors shall maintain required insurance during the term of the contract including any extensions of the term.

5. City's Right to Review Coverage. The City shall have the right to inspect and approve Contractor's insurance coverage herein required. Should the City deem it advisable to modify the coverage in any way, it shall so request of the Contractor in writing and should the Contractor fail to modify the coverage, then the City may pay the cost of any increased coverage or take credit for any decreases as may be appropriate. Review or acceptance of insurance by the City or representatives of the City shall not relieve or decrease the responsibility of the Contractor hereunder.

6. Waiver of Subrogation. To the extent that the Contractor is required to maintain insurance coverage for loss or damage to property or bodily injury, including Builders Risk All Risk insurance, the insurance must waive and the Contractor hereby waives subrogation of claims against the City, its officers, agents and employees.

7. City as Additional Insured. The City shall be named as additional insured , for ongoing and completed operations for up to two (2) years, on the Contractor's and any subcontractor's policies for any claims arising out of work performed under this Contract. The Contractor shall provide the City with a Certificate of Insurance naming the City as an additional insured using ISO for CG 2010 1185 (or a substitute form providing equivalent coverage) or on the combination of ISO forms CG 20 10 07 04 or CG 20 33 07 04 and CG 20 37 07 04 (or a substitute or ISO form providing equivalent coverage) naming the City as an additional insured , giving all parties a 30 notice of cancellation or intent not to renew the insurance, a waiver of subrogation and list any and all exclusions. The coverage available to the City as an additional insured shall not be less than \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate (subject to a per project general aggregate applicable to the project,), \$2,000,000 Products/completed Operations Aggregate, and \$1,000,000 Personal and Advertising injury

limits. Additional insured coverage shall apply as primary, non contributory, insurance with any other insurance afforded to the City and the Contractor.

B. Insurance:

1. Workmen's Compensation Insurance:

The Contractor shall take out and maintain during the term or any extensions of this contract Workmen's Compensation Insurance as required by Alabama law for all of its employees employed at the site of the Project or off-sites related to the Project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor.

In case any class of employees engaged in any work under this contract at the site of the Project is not protected under the Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate accident insurance for the protection of its employees not otherwise protected.

Water or Navigational Exposure; Where work under this contract may trigger the requirement for Federal Longshoreman's and Harbor worker's Act and Federal Jones Act or insurance required by other applicable law or regulations, the Contractor shall obtain the same if required.

2. Comprehensive Automobile and Vehicle Liability Insurance:

The Contractor shall maintain during the term or any extensions of this contract, comprehensive automobile and vehicle liability insurance.

The limits of liability shall not be less than \$1,000,000 combined single limit or equivalent.

3. Commercial General Liability Insurance:

The Contractor shall maintain during the term or any extensions of this contract, Commercial General Liability Insurance, including officers, agents and employees.

The limits of liability shall not be less than \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate (subject to a per project general aggregate applicable to the project), \$2,000,000 Products/Completed Operations Aggregate, and \$1,000,000 Personal and Advertising Injury Limits Combined Single Limit or equivalent.

4. Owner's Protective Insurance:

For projects with a contract amount of \$500,000.00 or greater, an Owner's Protective Policy is required in the minimum amount of \$1,000,000 each occurrence. Provided; however, the City may require such insurance on projects of lesser amount if an insurance limit amount is stated herein.

5. Umbrella Excess Liability Over Primary Insurance:

The Contractor shall take out and maintain during the term of this contract, and any extensions thereof, Umbrella Excess Liability Insurance. The minimum limits of coverage shall be as follows:

Each Occurrence	\$ <u>1,000,000</u>
Aggregate	\$ <u>1,000,000</u>

The coverage shall be over the required general liability insurance and automobile liability insurance as a minimum. There shall be no gaps or sublimit deductibles, etc.

6. Proof of Carriage of Insurance:

The Contractor shall furnish the City with satisfactory proof of carriage of the insurance required herein, in the form of an insurance certificate or if the City elects in the form of a policy. Insurance shall be in a form satisfactory to the City.

- (A) The Contractor's and any subcontractor's general liability and automobile liability insurance shall endorse the Owner (City of Tuscaloosa), its officers, agents and employees, as additional insured's for any claims arising out of work performed under this contract.
- (B) The Contractor's insurance endorsing the Owner and others as additional insured's shall be "primary" and non contributory as to such endorsed insured's.
- (C) Cancellation: The certificate and policy, as the case may be, shall state that the City shall be given thirty (30) days' written notice of cancellation or any change in the insurance coverage.
- (D) There shall be a statement that the Contractor and any subcontractors waive subrogation as to the City, its officers, agents, employees and Program Coordinator.
- (E) There shall be a statement that full aggregate limits apply per job or contract.
- (F) Agents verification of Contractor's insurance on form provided by the City or equivalent.
- (G) Insurance shall contain no exclusions for x, c or u.
- (H) Full aggregate limits must apply per job or contract.

XV. CONFLICTS OF INTEREST

The Consultant represents and warrants to the City that neither it nor its Project Director are aware of any conflict of interest which exists or could arise by means of its provision of services to the City pursuant to the terms and conditions of this agreement. Consultant further warrants that during the course of providing services to the City pursuant to this agreement it will not represent or receive compensation from any vendor, supplier or contractor to the City. This is an exclusive personal service agreement and Consultant will not represent the interest of any other person, firm or entity that conflicts with the interest of the City of Tuscaloosa in regard to the subject matter of this agreement or the performance of services pursuant to the terms and conditions hereof.

It is understood by and between the parties hereto that neither the Consultant, nor any of its officers, agents or employees nor any sub consultant to the Consultant nor any subsidiary, parent entity, principal officers nor any entity having a beneficial interest in any

of the same, may submit a bid or proposal in response to any request for proposals or advertisement for bids resulting from the services provided in whole or in part pursuant to this agreement.

XVI. NOTICES/PARTIES REPRESENTATIVES

The representative of the City of Tuscaloosa for this agreement shall be: Christy Bobo.

All notices, bills, invoices and reports required by this agreement shall be sufficient if sent by the parties hereto in the United States Mail, postage prepaid thereon to the addresses noted below:

Client:

Contractor:

XVII. REPRESENTATIVE CAPACITY:

While Consultant's role will be that of consultant to the City, Consultant shall be and remain an independent contractor and not act in the role of an agent or legal representative on behalf of the City. Consultant shall not have the authority to bind or obligate the City, its officers, agents or employees.

XVIII. MISCELLANEOUS:

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.

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.

City Logo and Name: The Consultant 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.

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.

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.

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

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.

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.

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.

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.

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.

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.

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

Governing Laws: 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.

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.

Non Discrimination: The Consultant 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).

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

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.

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.

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.

XIX. COMPLIANCE WITH IMMIGRATION LAW

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 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.

CITY OF TUSCALOOSA, A MUNICIPAL CORPORATION

BY: _____
Walter Maddox, Mayor

ATTEST:

City Clerk

CONTRACTOR: _____

ATTEST:

BY: _____

**STATE OF ALABAMA)
TUSCALOOSA COUNTY)**

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Walter Maddox, whose name as Mayor of the City of Tuscaloosa, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the _____ day of _____,
20____.

Notary Public.

My Commission Expires: _____

STATE OF ALABAMA)
COUNTY OF TUSCALOOSA)

I, _____, a Notary Public in and for said State at Large, hereby certify that _____, who is named as _____, is signed to the foregoing document, and,

- Who is known to me, or
- Whose identity I proved on the basis of _____, or
- Whose identity I proved on the oath/affirmation of _____, a creditable witness to the signer of the above document

and that being informed of the contents of the document, he/she, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the ____ day of _____, 20____.

Notary Public.

My Commission Expires: _____

STATE OF ALABAMA)
TUSCALOOSA COUNTY)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Walter Maddox, whose name as Mayor of the City of Tuscaloosa, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the _____ day of _____,
20____.

Notary Public.

My Commission Expires: _____

Project Specifications (Scope of Services)

1. Contractor shall provide the following:
 - a. Ticket Takers
 - b. Ushers
 - c. Pre-show set-up (chair set-up) and strike and supervision of these activities.
 - d. Adequate supervision and training of all employees to the satisfaction of the City of Tuscaloosa.
 - e. A friendly, welcoming environment and the highest standard of professionalism.
2. In the event Contractor is unable to provide services for a particular event and Contractor advises the City of its inability to fulfill its obligations hereunder in a reasonable time prior to the event, the Agreement shall be suspended for the time period of said event, and the City shall have the right to enter into an Agreement with another contractor to provide services for that particular event, with the understanding that this separate contract would not constitute a material breach of this Agreement.
3. Contractor acknowledges that the City may permit the use of the Amphitheater for certain charitable and/or civic events. In such cases, said events may elect to provide services through a third party and said events shall not be subject to this Agreement.
4. Contractor shall not charge holiday rates, hourly minimums, overtime rates, or inclement weather fees. The rates provided herein are constant rates for each position and shall not change unless the parties agree in writing to a change.
5. Contractor shall provide the City with an estimated invoice one week prior to each event. Contractor shall provide the City with a final show event estimated invoice no later than 4:00 pm the night of the event, or as otherwise requested by the City.
6. Contractor shall perform the services required by this Agreement as directed by the City's designated representative, or her designee.

7. Contactor's employees, while on duty shall wear City uniforms, present a neat and orderly appearance, and shall perform their duties in a courteous, respectful and professional manner.

8. The City's designated representative, or her designee, reserves the right to specify Contractor's crew size, work methods and/or equipment, depending upon the needs of different events. Whether or not these items are specified, the contractor shall perform the work described herein according to industry standards and to the desired work quality of the City of Tuscaloosa.

9. The City's designated representative, or her designee, will have the right to interview and approve the Contractor's dedicated on-site supervisor.

10. All Contractor personnel must comply with all applicable Tuscaloosa Amphitheater policies and procedures, and all applicable City and State laws and regulations.

11. Contractor's staff must wear clothing approved by the City's designated representative, or her designee.

12. The City's designated representative, or her designee, reserves the right to direct the Contractor to dismiss a member of its staff from the Tuscaloosa Amphitheater premises, and reserves the right to request that a staff member no longer work at the premises.

13. From time to time, the City will have major events on consecutive days. For these back-to-back events, the Contractor must have adequate personnel to provide services for both events and a fresh crew to work the new shift if requested.