



*"Cedar Rapids is a vibrant urban hometown – a beacon for people and businesses that are invested in building a greater community now and for the next generation."*

## **REQUEST FOR BID**

October 2, 2020

For  
**DAMAGE ASSESSMENT FOR POOL SLIDES**  
**RFB #PUR0820-082; 18524**

Prepared by  
City of Cedar Rapids  
Purchasing Services Division

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<b>Attachment</b>	<b>Attachment Name</b>
A	Standard Terms and Conditions
B	Insurance Requirements
C	Submittal Forms (Certification Regarding Ability to Obtain Required Insurance, Bid Pricing Submittal Form, Signature Page Form)
D	Federal Requirements

## Section 1.0 – NOTICE OF REQUEST FOR BIDS (RFB)

### 1.1 Notice of Request for Bid

Notice is hereby given that bids will be received before 3:00 pm CDT on Friday, October 9, 2020 via email for Damage Assessment for Pool Slides as requested by the City of Cedar Rapids.

### 1.2 RFB Timeline

**Name of the Bid** Damage Assessment for Pool Slides, RFB #PUR0920-082;18524

**Date of Issuance** October 2, 2020

**Deadline for Questions** Tuesday, October 6, 2020 by 3:00 pm CDT

**Deadline for Bid Submittal** Friday, October 9, 2020 before 3:00 pm CDT  
Bids time stamped 3:00 pm or after are late

**Recommendation for Award** October, 2020

**Method of Submittal** **AT THIS TIME EMAIL BIDS ARE BEING ACCEPTED UNTIL FURTHER NOTICE. PLEASE EMAIL BIDS TO [bids.purchasing@cedar-rapids.org](mailto:bids.purchasing@cedar-rapids.org)**

**ONLY SUBMIT THE CERTIFICATION REGARDING ABILITY TO OBTAIN REQUIRED INSURANCE, BID PRICING SUBMITTAL FORM and SIGNATURE PAGE FORM. DO NOT INCLUDE COLOR PHOTOS, REFERENCES, ETC.**

**Contact Person, Title** Heather Mell, CPPB, Purchasing Agent  
**E-mail Address** [h.mell@cedar-rapids.org](mailto:h.mell@cedar-rapids.org)

**Phone/ Fax Numbers** Phone: 319-286-5117 Fax: 888-815-3659

- 1.3 The City is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City, or any other means of delivery employed by the Bidder. Similarly, the City is not responsible for, and will not open, any bid responses that are received on or after the time stated above. Late submittals will be retained in the RFB file, unopened. No responsibility will be attached to any person for premature opening of a bid not properly identified.
- 1.4 The bid tabulation will be posted no later than 3:30pm on Friday, October 9, 2020. This will be a preliminary tabulation provided for informational purposes only. The final bid tabulation, with awarded vendor, will be posted after the department has had the opportunity to review all bids.
- 1.5 Bids will be evaluated promptly after opening. After an award is made, a bid tabulation summary will be sent to all companies who submitted a bid. Bid results will not be given over the telephone or prior to award. Bids may be withdrawn any time prior to the scheduled closing time for receipt of bids; no bid may be modified or withdrawn for a period of sixty (60) calendar days thereafter.

----- End of Section 1.0 -----

## SECTION 2.0 – INSTRUCTIONS TO BIDDERS

### 2.1 FEDERAL FUNDING PROVISIONS

#### **NOTICE: THIS IS A FEDERALLY FUNDED PROJECT**

The City of Cedar Rapids, Iowa, is a sub-recipient of the State of Iowa, under the Public Assistance Program for the Damage Assessment for Pool Slides, RFB #PUR0920-082;18524, CFDA # 97.036.

**AWARDING AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security.

Funding, in whole or in part, for this Project is through a Public Assistance grant from FEMA therefore all provisions of 2 CFR §§ 200.317 through 200.326 under the Uniform Administrative Requirements (“Uniform Rules”) apply to this Project.

Federal Law requires that contracts relating to the Project include certain provisions of 2 CFR §§ 200.317 through 200.326 under the Uniform Administrative Requirements (“Uniform Rules”). Depending upon the type of work or services provided and the dollar value of the Project, some of the provisions set forth in 2 CFR §§ 200.317 through 200.326 may not apply to the Contractor or to the work or services to be provided hereunder; however, the provisions are nonetheless set forth to cause this Project to comply with all applicable federal laws, regulations and executive orders.

This Project will be in strict compliance with program requirements of the Awarding Agency and of 2 CFR §§ 200.317 through 200.326. See additional provisions, Attachment D.

### 2.2 NOTICE: INSURANCE IS REQUIRED FOR THIS PROJECT

#### **WORK SHALL NOT BEGIN UNTIL THE CERTIFICATE OF INSURANCE AND ALL REQUIRED ENDORSEMENTS ARE RECEIVED AND APPROVED BY THE CITY.**

At all times during the term of the Work and the Contract, and any extensions thereof, the Contractor shall purchase, at its own expense, and maintain with insurance companies in good standing and acceptable to the City. Such insurance will protect the Contractor from liability and claims for injuries and damages which may arise out of or result from the Contractor’s operations under the Contract and for which the Contractor may be liable, whether such operations are by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

For the protection of the Contractor and the City, but without restricting or waiving any obligations of the Contractor herein contained, the Contractor shall insure the risks associated with the Work and the Contract with minimum coverages and limits as set forth in Attachment B, INSURANCE REQUIREMENTS.

2.3 Whenever used in this RFB the following terms shall have the meaning given as follows: City shall mean the City of Cedar Rapids, Iowa. Contractor shall mean the firm providing Work for the City. Subcontractor shall mean any person, firm, or corporation who contracts with the Contractor to perform a service for which the basis of payment or Scope of Work is identified as a part of this RFB. Project Manager shall mean John Riggs who is the designated coordinator and administrator for the Work under this project.

2.4 A company representative who is authorized to bind the Company will sign on behalf of the company to indicate to the City that you have read, understand and will comply with the instructions and all terms and conditions stated in this Request for Bid and all attachments.

### 2.5 Pre-Bid Meeting

There is no Pre-bid meeting for this Project.

2.6 This Request for Bid does not commit the City to make an award, nor will the City pay any costs incurred in the preparation and submission of bids, or costs incurred in making necessary studies for the preparation of bids.

### 2.7 Addenda

Any matter of this bid package that requires explanation or interpretation must be inquired into by the Bidder in writing by Tuesday, October 6, 2020 at 3:00 pm CDT. E-MAIL all questions to Heather Mell at [h.mell@cedar-rapids.org](mailto:h.mell@cedar-rapids.org). Any and all questions will be responded to in the form of written addenda to all Bidders. All addenda that you receive shall become a part of the Contract Documents and shall be acknowledged and dated on the bottom of the Signature Page Form (Attachment C). All Addenda will be posted on the City’s website. It is the Bidder’s responsibility to check for addenda.

2.8 Exceptions to Documents

The Bidder shall clearly state in the submitted bid any exceptions to, or deviations from, the minimum bid requirements, and any exceptions to the terms and conditions of this RFB. Such exceptions or deviations will be considered in evaluating the bids. Bidders are cautioned that exceptions taken to this RFB may cause their bid to be rejected.

2.9 Silence of Specifications

Commercially accepted practices shall apply to any detail not covered in the specification and to any omission of the specification. Any omission or question of interpretation of the specification that affects the performance or integrity of the service being offered shall be addressed in writing and submitted with the Proposal.

2.10 Incomplete Information

Failure to complete or provide any of the information requested in this Request for Bid, including references, and/or additional information as indicated, may result in disqualification by reason of "non-responsiveness".

2.11 No responsibility will be attached to any person for premature opening of a bid not properly identified.

2.12 In the event of conflict, the Special Terms and Conditions shall take precedence over the Standard Terms and Conditions, included herein.

Be advised that any conversations (in reference to this RFB) between bidders and any City employee, City official or City Project Manager, outside of the Purchasing Services Division, during the entire competitive bidding process is strictly prohibited. Such actions will result in removal of the Contractor from the vendors list and rejection of the Contractor's bid. **The ONLY official position of the City is that position which is stated in writing and issued by the Purchasing Services Division.** No other means of communication, whether written or oral, shall be construed as a formal or official response statement.

----- End of Section 2.0 -----

## SECTION 3.0 – SPECIAL TERMS AND CONDITIONS

### 3.1 Term of Contract

- 3.1.1 The initial term of the Contract shall commence on Tuesday, October 13, 2020 and shall end upon completion of the work. Progress towards completion shall be expedient in order for repairs to be made prior to the pools opening in the Spring of 2021.
- 3.1.2 The Contract may be extended by written mutual agreement by the City and the Contractor.
- 3.1.3 A Contract, prepared by the City and signed by the City Manager, shall become the document that authorizes the Work to begin, assuming the insurance requirements have been met. Each section contained herein, the attachments, and any addenda and the response from the successful Bidder shall also be incorporated by reference into the resulting agreement.
- 3.1.4 The City reserves the right to make changes to the Work to be provided which are within the Project. No assignment, alteration, change, or modification of the terms of the Contract shall be valid unless made in writing and agreed to by both the City and the Contractor. The Contractor shall not commence any additional work or change the scope of the Work until authorized in writing by the City. Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment of the Contract executed by both the Contractor and the City. The Contract may only be amended, supplemented or modified by a written document executed by the Contractor and the City Manager.
- 3.1.5 In accordance with the provisions and conditions of the Contract, Contractor shall freely enter into the Contract for the purpose of providing Work to the City and to be compensated for the Work.
- 3.1.6 No price escalation will be allowed during the initial term of the contract. If it is mutually decided to renew beyond the initial period and the Contractor requests a price increase, the Contractor shall provide sufficient written certification and documentation to substantiate the request. Documentation shall include, but not be limited to; actual materials invoices, copies of commercial price lists, provision of appropriate indices, which reflect said increases. The City reserves the right to accept or reject price increases, to negotiate more favorable terms or to terminate without cost, the future performance of the contract.

### 3.2 Contract Forms

- 3.2.1 If a Bidder intends to request that the City of Cedar Rapids enter into any agreement form in connection with the award of this project, the form must be submitted with the Bid for review by the City's legal counsel during the evaluation of Bids. If such agreement requires that payments be remitted to other than the Bidder, the Bidder shall indicate the name and address of the firm to whom Bidder would request payments to be made, and the firm's relationship to the Bidder.
- 3.2.2 Bidders are advised that in the event any such agreement contradicts the City of Cedar Rapids requirements, the bid may be rejected due to the contradiction unless Bidder indicated deletion of such clauses. If agreement form indicated a firm other than the Bidder is Contractor, or payee, the proposed Contractor or payee must also indicate concurrence with the deletion of such clauses.
- 3.2.3 If no agreement form is included with the bid, no such form will be approved by the City during the evaluation or award processes, or following award of contract. If the bid does not indicate the proposed Contractor, vendor or payee to be a person or company other than the Bidder, (1) only the Bidder will be considered as Contractor and (2) payments will be made only to the Bidder to whom the contract is awarded.
- 3.2.4 The City of Cedar Rapids will in no case agree to terms not submitted for review with the bid submittal.

### 3.3 Payment Terms and Invoice Submittal

- 3.3.1 Payment terms for Work authorized under the contract shall be net forty-five (45) days upon receipt of an acceptable original invoice and after Work is performed, inspected and accepted and all required documentation and reports are received in a format acceptable to the City.
- 3.3.2 Invoices shall include the following information:
  - a) Contractor name

- b) Purchase Order number
- c) Project Worksheet number
- d) Total amount being invoiced
- e) Description and location of work performed
- f) Date work was performed
- g) Bid Number/Contract Number PUR0920-082

3.3.3 Surcharges (i.e. fuel surcharges, restocking) shall NOT be allowed to be added to invoices as an additional line item.

3.3.4 All invoices and supporting documentation shall be submitted at the intervals as agreed upon:  
Contractor shall submit invoices to the City on the 15<sup>th</sup> and 30<sup>th</sup> of each month.

- a) In a pdf format via e-mail to: [accountspayable@cedar-rapids.org](mailto:accountspayable@cedar-rapids.org)  
or
- b) Via US mail to: City of Cedar Rapids, Finance Department – Accounts Payable,  
101 First Street SE, PO Box 2148, Cedar Rapids, IA 52406-2148.

3.3.5 The City may withhold payment for reasons including, but not limited to the following:

- a) Work that is defective, inaccurate, flawed, unsuitable, nonconforming or incomplete due to negligence of the Contractor;
- b) Damage for which Contractor is liable under the Contract;
- c) Valid liens or claims of lien;
- d) Valid claims of Subcontractors or other persons;
- e) Delay in the progress or completion of the Work;
- f) Inability of Contractor to complete the Work;
- g) Failure of Contractor to properly complete or document any pay request or invoice;
- h) Any other failure of Contractor to perform any of its obligations under the Contract; or
- i) The cost to City, including attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of City's remedies set forth in the Contract.

3.3.6 Actual travel time to and from the work location is not reimbursable under the Contract.

#### 3.4 Treatment of Documents and Records

##### 3.4.1 Ownership

All Documents and other materials prepared by the Contractor in connection with this project are the City's sole property in which the Contractor has no proprietary or other rights or interests. All reports, documents, information, and any materials or equipment furnished to the Contractor by the City shall remain the sole property of the City. Nothing written in this paragraph, however, will be interpreted to forbid the Contractor from retaining a single copy of information for its files.

##### 3.4.2 Confidentiality

Any individual subcontracted or employed by the Contractor with authorized access to personnel information documents, if any, is given access to use any personnel information in the documents solely for the purpose of performing the Work of the Contract and must not divulge this information to anyone without a need to know. Confidentiality of personnel information contained in the documents shall survive the completion or termination of the Contract subject to applicable state statutes.

##### 3.4.3 Disposal

If at any time during the performance of the Contract or following completion or termination of the Contract, Contractor and/or its subcontractors chooses to dispose of Documents, disposal of Documents shall:

- a) comply with any retention requirements of the agreement, and

- b) be in a manner such that documents or information in the Documents is unable to be read, interpreted, reproduced, copied or duplicated in any fashion.

#### 3.4.4 Access/Retention

During the term of the Contract or following completion or termination of the Contract the Contractor and its Subcontractors, if any, shall maintain all accounting records and other documentation generated in performing the Work under the Contract.

Any duly authorized representative of the City, the State or a Federal Agency shall have access to all such information for the purpose of inspection, audit and copying during normal business hours. All such information shall be retained for five (5) years from the date of final payment and after all other pending matters under the Contract are closed including but not limited to litigation, claim, negotiation, audit or any other action involving the records.

This access shall be made available to the City or duly authorized agent and shall be considered incidental to the Scope of Work contained herein. As such, there shall be no additional compensation allowed the Contractor for maintaining this information and allowing the herein described access.

- 3.5 If Project is funded in any way utilizing Federal Funds the Contractor acknowledges that it may be required to submit to an audit of funds paid through the Contract and as may be conducted in accordance with provisions of the Office of Management and Budget Circular A-133 (Audit of States, Local Government and Non-Profit Organizations).

#### 3.6 Expenditure of Service

The City does not guarantee any minimum or maximum hours of work for the Contractor. There is no guaranteed minimum amount of work that will be required throughout the contract period.

----- End of Section 3.0 -----



## SECTION 4.0 – SCOPE OF WORK, SPECIFICATIONS

### 4.1 Background

The City of Cedar Rapids is seeking bids from qualified Contractors for Damage Assessment for Pool Slides related to the August 10, 2020 derecho.

### 4.2 Scope of Work

4.2.1 Contractor shall perform an inspection of the nine (9) outdoor water slides located at five (5) different pools and aquatic centers.

4.2.2 Contractor shall perform a General inspection of the outdoor water slides including support structures and flumes.

4.2.3 Contractor shall provide inspection reports to the City's Project Manager in a timely manner.

4.2.4 Contractor shall prepare a scope of work for needed repairs that is non-proprietary in the design, products, and repairs specified. The Contractor, or any subcontractor for the contractor, if they provide repair services as well, may submit a separate bid for the repair contract once the repair bid has been issued.

4.2.5 Contractor shall provide a cost estimate for repairs as part of the inspection report for each slide structure.

4.2.6 The Contractor shall coordinate inspections at each location with the City's Project Manager.

#### 4.2.7 Pool Locations

Bever Pool	2700 Bever Ave SE, Cedar Rapids, IA
Cherry Hill Pool	341 Stoney Point Rd NW, Cedar Rapids, IA
Ellis Pool	2000 Ellis Blvd NW, Cedar Rapids, IA
Jones Pool	201 Wilson Ave Dr SW, Cedar Rapids, IA
Noelridge Pool	1248 42 <sup>nd</sup> St NE, Cedar Rapids, IA

### 4.3 Contractors Employees

Any person working on City property must be identifiable by uniform, proper identification and a marked vehicle. The Contractor shall only furnish employees who are competent and skilled for work under the Contract.

If, in the opinion of the City, an employee of the Contractor is incompetent or disorderly, refuses to perform in accordance with the terms and conditions of the Contract, threatens or uses abusive language while on City property, or is otherwise unsatisfactory, that employee shall be removed from all work under the Contract.

### 4.4 Subcontracts – Assignments

No part of this project will be subcontracted or assigned without prior written consent of the City, excluding any emergency work. Any subcontractor or assignee must meet the same qualifications in their field as the prime Contractor. Contractor shall be responsible for any payments to subcontractors. Subcontractors must meet all requirements as specified in this contract (i.e. training, safety, insurance, etc.).

### 4.5 Regulatory Agency Compliance

Compliance with laws and regulations set forth by regulatory agencies is required. These agencies include, but are not limited to, OSHA – Occupational Safety & Health Agency, EPA – Environmental Protection Agency, ICC – Interstate Commerce Commission, DNR – Department of Natural Resources, and DOT – Department of Transportation. The City of Cedar Rapids expects that bidders will offer expertise on conformance of regulations applying to the products they sell. Failure to assist the City of Cedar Rapids in this area may be just cause for rejection.

### 4.6 Safety

Contractor will ensure that its employees observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds. All buildings, equipment and furnishings shall be protected by the Contractor from damage, which might be done or caused by work performed under the Contract. Such damages to the foregoing shall be repaired and/or replaced by approved methods so as to restore the damaged areas to their original condition at the expense of the Contractor. The Contractor shall erect, install, and

maintain all temporary public walks, warning signs, barricades, and other protective means as may be necessary for the protection of the public from injury. Contractor certifies that all items or service delivered herein comply with all ANSI Standards and with the Federal Occupational Safety and Health Act of 1970, as applicable.

Contractor shall exercise the utmost care when working on City property. The Contractor shall be responsible for, and indemnify and hold the City harmless from all damage to the facility that may occur during this project. Any damage that may occur shall be reported to the City immediately. The City may direct the Contractor to undertake immediate and reasonable steps to repair and remediate any damage. The Contractor shall maintain a written log describing all property damage reports, and the Contractor's activities to repair and remediate. This log shall include the dates for each damage report, pictures, contact information and resolution. If property damaged by the Contractor is not repaired or remediated in a timely basis as directed by the City, and to the satisfaction of the City, the City may, at its option, have the damage repaired at the Contractor's expense to be reimbursed to the City.

----- End of Section 4.0 -----

## SECTION 5.0 – BID EVALUATION AND AWARD

- 5.1 Award - Any award(s) made by the City of Cedar Rapids is subject to prior approval by the City of Cedar Rapids City Council.
- 5.1.1 Award shall be made to the responsible Bidder submitting the lowest responsive bid with regard to the specifications set forth herein. The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups or lump sum; and to waive technicalities and formalities where it is deemed advisable in protection of the best interests of the City.
- 5.1.2 If the evaluation team determines that the project should be awarded, the process shall be as follows:
- The evaluation team shall determine which responsible Bidder has submitted the lowest responsive bid.
  - For projects equal to or greater than \$50,000, the City Council shall consider a resolution awarding the contract and authorizing the City Manager to sign the Contract on behalf of the City. **Note**, as provided for by Section 4.03 of the Cedar Rapids Municipal Code, no Contract shall be deemed to be created and exist, unless and until the City Council adopts a resolution awarding the project and authorizing the City Manager to sign the Contract.
  - The City Manager executes the Contract.
  - The City issues a purchase order to the Contractor. The purchase order shall constitute authorization for the Contractor to commence the Work.
- 5.1.3 If the evaluation team determines that all the bids received should be rejected, the Bidders shall be notified by the Purchasing Services Division accordingly. At that point, the City may, or may not, re-bid the project.
- 5.2 Award of bid shall be made to the lowest responsive and responsible Bidder(s) meeting the specifications set forth herein. In addition to the quoted price, the following is a partial list of the criteria that may be used in our determination of Contractor responsibility and responsiveness:
- Adherence to specifications;
  - Service as specified in these bid documents;
  - Company's ability to meet the City's Insurance Requirements;
  - Current lead-time quoted;
  - Length of time committed for firm pricing;
  - Guarantees and warranties;
  - Past experience and service provided by Bidder;
- 5.3 The City of Cedar Rapids reserves the right to use both primary and secondary suppliers or to otherwise use multiple sources to protect the City's overall interests.
- 5.4 The Company must not have any unresolved performance issues with the City of Cedar Rapids. The Company's performance as a prime Contractor or subcontractor in previous City contracts shall be taken into account when evaluating the Company's submittal for this Request for Bid. The City may survey other local agencies during the bid evaluation period to make sure the Company does not have any unresolved or unsatisfactory performance issues. The City reserves the right to reject the Company's submittal based on its assessment of the Company's prior performance.
- 5.5 In case of tie bids, the City will make the award based on the priority factors as outlined in the City of Cedar Rapids Purchasing Policy Manual.  
[http://www.cedar-rapids.org/document\\_center/Purchasing/Tie%20Bid%20Procedure\\_14.pdf](http://www.cedar-rapids.org/document_center/Purchasing/Tie%20Bid%20Procedure_14.pdf)
- 5.6 Buy Local Program  
Buy-Local does not apply to the Project.

----- End of Section 5.0 -----

## SECTION 6.0 – SUBMITTAL INSTRUCTIONS

### DOCUMENTS TO SUBMITTED WITH THIS BID

1. Certification Regarding Ability to Obtain Required Insurance – Attachment C
2. Bid Pricing Submittal Form – Attachment C
3. Bid Signature Page – Attachment C

----- End of Section 6.0 -----

## ATTACHMENT A – STANDARD TERMS AND CONDITIONS

**ACCELERATED PAY DISCOUNTS** - Accelerated discounts should be so stated on the Signature Page. If quick pay discounts are offered, the City reserves the right to include that discount as part of the award criteria. Prices bid must, however, be based upon payment in net forty-five (45) days after receipt, inspection and acceptance. In all cases, quick pay discounts will be calculated from the date of the invoice or the date of acceptance, whichever is later.

### ADA COMPLIANCE

1. The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101 et seq.) and applicable Federal regulations under the Act <https://www.law.cornell.edu/uscode/text/42/12101>.
2. Bids for design, construction, programs, policies and concessions of any type shall comply with the 2010 Standards for Accessible Design, the ADA title II regulation - <https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>, Section 504 of the 1973 Rehabilitation Act <https://www.ada.gov/cguide.htm#anchor65610>, and similar statutes and regulations prohibiting discrimination on the basis of disability.
3. The Contractor shall ensure that its websites and all online services, including those websites or online services provided by third parties upon which Cedar Rapids relies to provide services or content, comply with, at minimum, Web Content Accessibility Guidelines - WCAG 2.0 AA.
4. It is the responsibility of the Contractor to understand and implement the Accessible Design specifications indicated above (Article 26.1 and 26.2) into all applicable construction projects, including being aware of and making considerations for expected field or manufacturing tolerances, as stated in article 104.1.1 of the 2010 ADA Standards for Accessible Design. Further, the Contractor shall be responsible to make the construction workers aware of the specifications and tolerances in projects that involve ADA design items. Any subsequent inspection of installations of facilities or construction that results in failure to meet the Accessible Design parameters, these items shall be removed and replaced at the expense of the Contractor.

**ASSIGNMENT** - The City and the Contractor each is hereby bound and the partners, successors, executors, administrators and legal representatives of the City and the Contractor are hereby bound to the other Party to the Contract and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other Party, in respect of all covenants, agreements and obligations of the Contract. Any assignment or attempt at assignment made without prior written consent of the City shall be void.

**BID CURRENCY/LANGUAGE** - All bid prices shall be shown in US Dollars (\$). All prices must remain firm for the duration of the contract regardless of the exchange rate. All bid responses must be submitted in English.

**BID FORM** - Each Bidder must submit an original bid and additional copies as required on the forms attached. The Bidder shall correctly sign the bid, and the bid may be rejected if it shows any omissions, alterations of the form, additions not called for in the bid, or any irregularities of any kind. In case of a discrepancy between the unit price and the extended price, the unit price shall prevail.

**BID INFORMATION IS PUBLIC** - All documents submitted with any bid shall become public documents and subject to Iowa Code Chapter 22, which is otherwise known as the "Iowa Open Records Law". By submitting any document to the City of Cedar Rapids in connection with a bid, the submitting party recognizes this and waives any claim against the City of Cedar Rapids and any of its officers and employees relating to the release of any document or information submitted. Each submitting party shall hold the City of Cedar Rapids and its officers and employees harmless from any claims arising from the release of any document or information made available to the City of Cedar Rapids arising from any opportunity. Bid information requested by the public or other bidders will be provided in an alternative format if the requestor is a person with a disability and requires an alternative form for comprehension.

**BID REJECTION OR PARTIAL ACCEPTANCE** - The City reserves the right to accept or reject any or all bids or parts thereof. The City further reserves the right to waive technicalities and formalities in bids, as well as to accept in whole or in part such bids where it is deemed advisable in protection of the best interests of the City.

**CONFLICT OF INTEREST** - Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the City that is a conflict of interest. No employee, officer or agent of the Contractor shall participate in the selection or in the award if a conflict of interest, real or apparent, exists. The provisions of Iowa Code ch. 68B shall apply to the Contract. If a conflict of interest is proven to the City, the City may terminate the Contract, and Contractor shall be liable for any excess costs to the City as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the City.

**DISPUTES** - Should any disputes arise with respect to the Contract; the Parties agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute and the City shall continue to make payment for all work properly performed. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the City or the Contractor as a result of such failure to proceed shall be borne by the Contractor. The unintentional delayed payment by the City to the Contractor of one or more invoices not in dispute in accordance with the terms of the Contract will not be cause for Contractor to stop or delay Work.

**FOB POINT AND FREIGHT/DELIVERY CHARGES** - The FOB point, in terms of loss or damage, as well as where title to the goods is passed, shall be FOB-Destination. Freight/delivery charges are to be included in the quoted price of the goods, rather than as a separate line item.

**FORCE MAJEURE** - Force majeure shall be any of the following events: acts of God or the public enemy; compliance with any order, rule, regulation, decree, or request of any governmental authority or agency or person purporting to act therefore; acts of war, public disorder, rebellion, terrorism, or sabotage; floods, hurricanes, or other storms; strikes or labor disputes; or any other cause, whether or not of the class or kind specifically named or referred to herein, not within the reasonable control of the Party affected. A delay in or failure of performance of either Party shall not constitute a default hereunder nor be the basis for, or give rise to, any claim for damages, if and to the extent such delay or failure is caused by force majeure. The Party who is prevented from performing by force majeure shall be obligated, within a period not to exceed fourteen (14) days after the occurrence or detection of any such event, to give notice to the other Party setting forth in reasonable detail the nature thereof and the anticipated extent of the delay, and shall remedy such cause as soon as reasonably possible, as mutually agreed between the Parties.

**INDEMNIFICATION** - The Contractor shall, and hereby agrees to, protect, defend, indemnify and hold harmless the City of Cedar Rapids, its officers and employees, the United States Government, FEMA, the State of Iowa, their agencies and agents from any and all claims, settlements, judgments, and damages of every kind and nature made, to include all costs associated with the investigation and defense of any claim, rendered or incurred by or on behalf of the City, its officers, and employees, that may arise, occur, or grow out of any errors, omissions, or acts, done by the Contractor, its employees, or any independent Contractors working under the direction of either the Contractor in the performance of the Contract.

**LAWS AND REGULATIONS** - The Contract shall be governed, interpreted and enforced in accordance with all applicable federal, State of Iowa, and local laws, ordinances, licenses and regulations of a governmental body having jurisdiction and shall apply to the Contract throughout, as the case may be. The Contractor certifies that in performing the Contract they will comply with all applicable provisions of the federal, state, and local laws, regulations, rules, and orders.

**METHOD OF AWARDING** - The City reserves the right to make awards based on the entire bid or on an item by item basis. However if Contractor's bid is based on an "all or none" condition, the City may consider their bid non-responsive and reject the entire bid.

**NO GIFT STANDARD** - The City of Cedar Rapids is committed to upholding the highest ethical standards in all of its business practices. This standard recognizes the need to avoid even the perception of improper gifts or favors to employees. Therefore, all suppliers have been asked to abide by the City's "No Gift" standard. The "No Gift" standard also applies to all offers of discounts or free items at any place of business targeted toward a City employee and not available to the general public, regardless of the value.

**NON-COLLUSION STATEMENT** - Neither the Contractor, nor anyone in the employment of the Contractor, has employed any person to solicit or procure the Contract nor will the Contractor make any payment or agreement for payment of any compensation in connection with the Contract. There is no contract, agreement or arrangement, either oral or written, expressed or implied, contemplating any division of compensation for Work rendered under the Contract or participation therein, directly or indirectly, by any other person, firm or corporation, except as documented in the Contract. Neither the Contractor, nor anyone in the employment of the Contractor, has either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive procurement in connection with the Contract.

**NON-DISCRIMINATION AND EQUAL OPPORTUNITY** - All Contractors that engage in contracts with the City of Cedar Rapids, Iowa agree as follows: The Contractor will not discriminate against any employee or applicant for employment because of race, sex, color, creed, ancestry, national origin, marital status, families with children, religion, age, disability, sexual orientation, gender identity, genetic information, status with regard to public assistance, status as a veteran or any classification protected by federal, state, or local law, (Protected Classes) except where age and sex are essential bona fide occupational requirements, or where disability is a bona fide occupational disqualification. Such action shall include, but not be limited to the following; (a) Employment, (b) Upgrading, (c) Demotion or transfer, (d) Recruitment and advertising, (e) Layoff or termination, (f) Rate of pay or other forms of compensation, and (g) Selection for training, including apprenticeship. The Contractor further assures that managers and employees comply with both the spirit and intent of federal, state, and local legislation, government regulation, and executive orders in providing affirmative action as well as equal opportunity without regard to the protected classes, as stated above. The Contractor will include, or incorporate by reference, the provisions of the nondiscrimination clause in every contract or subcontract unless exempt by the rules, regulations or orders of the City's Affirmative Action Program and will provide in every contract or subcontract that said provision will be binding upon each Contractor.

**REGULATORY AGENCY COMPLIANCE** - Compliance with laws and regulations set forth by regulatory agencies is required. These agencies include, but are not limited to, OSHA – Occupational Safety & Health Agency, EPA – Environmental Protection Agency, ICC – Interstate Commerce Commission, DNR – Department of Natural Resources, and DOT – Department of Transportation. The City of Cedar Rapids expects that Contractors will offer expertise on conformance of regulations applying to the products they sell and the work they perform.

**RIGHT TO PROTEST** - Anyone wishing to file a protest concerning (1) the specifications, (2) the bid procedure or (3) the award of the contract must do so in writing in accordance with the City's Protest Procedure which is posted on the City's website at [http://www.cedar-rapids.org/document\\_center/Purchasing/Protest%20Procedure\\_14.pdf](http://www.cedar-rapids.org/document_center/Purchasing/Protest%20Procedure_14.pdf)

**SAFETY DATA SHEETS** - The Hazard Communication Standard (HCS) requires chemical manufacturers, distributors, and importers to ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked and to provide Safety Data Sheets (SDS) to communicate the hazards of hazardous chemical products. It is the chemical supplier's responsibility to determine which products are covered and to provide SDS with the initial shipment. It is also the chemical supplier's responsibility to provide any updated

or revised SDS, as they become available for any products sold and delivered to the City of Cedar Rapids. City of Cedar Rapids employees shall not accept a shipment of any chemical that does not have a SDS attached or currently on file. Safety Data Sheets shall be available in alternative formats if the requestor is a person with a disability and requires an alternative format for comprehension.

**SUBCONTRACTING** - The Work relating to this Project, or any portion thereof, may not be subcontracted without written approval from the City. All approved Subcontractors shall be listed in the resulting contract or in a written amendment to the contract.

**SPECIFICATIONS** - Unless otherwise stated, every item provided in response to this Request for Bid shall be new, unused, and of current model under standard production by the manufacturer. Items shall be furnished complete with standard equipment and accessories as listed in the manufacturer’s printed literature. Remanufactured, used, demonstrator models or refurbished items will not be accepted.

**SUSPENSIONS AND DEBARMENT** - The Contractor hereby certifies, pursuant to 2 CFR pt. 180 and 2 CFR pt. 3000, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Contract by any federal agency. The Contractor further certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contracts with the City of Cedar Rapids or the State of Iowa.

**TAXES** - The City of Cedar Rapids is exempt from sales tax and certain other use taxes. Any charges for taxes from which the City is exempt will be deducted from invoices before payment is made. The Cedar Rapids Tax ID number is 42-6004336.

**TERMINATION OF CONTRACT FOR CONVENIENCE** - The City may terminate the Contract at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least thirty (30) calendar days before the effective date of such termination. In that event, all finished or unfinished Work, reports, materials(s) prepared or furnished by the Contractor under the Contract shall, at the option of the City, become its property. If the Contract is terminated by the City as provided herein, the Contractor shall be paid for all Work which has been authorized, provided, and approved up to the effective date of termination. The City will not be subject to any termination fees from the Contractor.

**TERMINATION FOR CAUSE AND DEFAULT** - If through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the terms or conditions of the Contract, the City shall thereupon have the right to terminate the Contract by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, and as of the time notice is given by the City, all completed Work, reports, and delivered materials shall, at the option of the City, become its property, and the Contractor shall be entitled to receive compensation for any satisfactory Work completed. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damage sustained by the City by virtue of breach of the Contract by the Contractor and the City may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the City are determined.

**WARRANTIES - WORK** - The Contractor shall perform Work for the City pertaining to the Project as set forth in the Contract. Contractor represents that the Work and all of its components shall be free of defects; shall be performed in a manner consistent with other Contractors in a similar industry and application; and shall conform to the requirements of the Contract.

Contractor shall be responsible for the quality, technical accuracy, completeness and coordination of all Work performed under the Contract. Contractor shall, promptly and without charge, provide all corrective Work necessary as a result of Contractor’s acts, errors, or omissions with respect to the quality and accuracy of the Work.

Contractor shall be responsible for any and all damages to property or persons as a result of Contractor’s acts, errors, or omissions, and for any losses or costs to repair or remedy any Work undertaken by City based upon the Work as a result of any such acts, errors, or omissions.

Contractor’s obligations shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of City or Contractor.

**WARRANTIES - INTELLECTUAL PROPERTY** - Contractor represents and warrants that all the materials, goods and work produced, or provided to the City pursuant to the terms of the Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such materials, goods and work. The Contractor represents and warrants that the materials, goods and work, and the City’s use of same, and the exercise by the City of the rights granted by the Contract shall not infringe upon any other work or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm, or corporation. Contractor further represents and warrants that the materials and works do not infringe upon the copyright, trademark, trade name, trade dress patent, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the goods and work contemplated by the Contract.

----- End of Attachment A -----

## ATTACHMENT B – INSURANCE REQUIREMENTS

### **Section I – Basic Insurance Requirements**

Contractor, at its own expense, shall procure and maintain during the life of this Contract, the following insurance so as to cover all risk which shall arise directly or indirectly from Contractor's obligations and activities.

**General Liability Insurance** Contractor shall carry the most recently approved ISO Commercial General Liability Insurance policy, or its equivalent, written on an occurrence-basis, with limits not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for Bodily Injury and Property Damage, including the following coverages:

- Premises and Operations Coverage
- Contractual Liability
- Products and Completed Operations Coverage
- Broad Form Property Damage Liability
- Personal Injury Liability

**Automobile Liability Insurance** with a combined single limit of at least \$1,000,000 per occurrence for bodily injury and property damage. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Contractor or its employees.

**Workers Compensation and Employers Liability Insurance** meeting the relevant Workers Compensation Statutes.

### **A COPY OF ONE (1) ENDORSEMENT IS REQUIRED:**

#### **Cancellation and Material Changes Endorsement**

Thirty (30) days Advance Written Notice of Cancellation, Non-Renewal, Reduction in insurance coverage and/or limits and ten (10) days written notice of non-payment of premium shall be sent to:

City of Cedar Rapids  
Finance Department – Purchasing Services Division  
101 First Street SE  
Cedar Rapids IA 52401

**(Please note that the City does accept a signed letter on the agent's letterhead, from the insured's insurance agent, confirming that the agent will provide notice as indicated above.)**

### **Section II – Conditions of Contract**

The Contractor is required to purchase and maintain insurance coverage to protect the Contractor and City of Cedar Rapids throughout the duration of this Contract as enumerated above in the minimum limits above written and the requirement shall be a part of the Contract. Failure on the part of the Contractor to maintain this insurance in full effect will be treated as a failure on the part of the Contractor to comply with these requirements and be considered sufficient cause to suspend the work, withhold payment(s), and/or be disqualified in the future.

The insurance policies shall be issued by insurers authorized to do business in the State of Iowa and currently having an A.M. Best Rating of "B+" or better. All policies shall be occurrence form. If Professional Liability coverage is written on a claims made policy form, the certificate of insurance must clearly state coverage is claims made and coverage must remain in effect for at least two years after final payment with the Contractor continuing to furnish the CITY certificates of insurance.

The Contractor shall be responsible for deductibles and self-insured retentions in the Contractor's insurance policies.

The Contractor is required to give the City notice of any change in coverage, specifically, any reduction in coverage and cancellation of coverage no less than thirty (30) days prior to the effective date of any non-renewal or cancellation of any policies required by the Contract.

The City intends to be an Additional Insured with coverage being primary and not contributing with any other insurance or similar protection available to the City whether any other coverage is primary, contributing or excess.

In the case of any work sublet, the Contractor shall require subcontractors and independent contractors working under the direction of either the Contractor or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor.



### **Section III – Contract Approval**

A Certificate of Insurance is required evidencing all required insurance coverage as provided above with any required endorsements attached so as to evidence their inclusion in the coverage. The Certificate of Insurance is due before the Contract can be approved. The following format is required:

List Damage Assessment for Pool Slides, #PUR0920-082; 18524 as the Scope of Work the certificate covers in the Description of Operations section.

The following address must appear in the Certificate Holder section:

City of Cedar Rapids  
Finance Department – Purchasing Services Division  
101 First Street SE  
Cedar Rapids IA 52401

The Producer's contact person's name, phone number and e-mail address is required.

Certificate may be sent by e-mail ([h.mell@cedar-rapids.org](mailto:h.mell@cedar-rapids.org)), fax (888-815-3659), mail or delivery to the attention of Heather Mell.

----- End of Attachment B -----

**ATTACHMENT C**

**BID SUBMITTAL FORMS**

For

**DAMAGE ASSESSMENT FOR POOL SLIDES**

**RFB #PUR0920-082; 18524**

<b>FORM NAME</b>	<b>Page</b>
Certification Regarding Ability to Obtain Required Insurance.....	19
Bid Pricing Submittal Form.....	20
Signature Page Form.....	21

<b>CERTIFICATION REGARDING ABILITY TO OBTAIN REQUIRED INSURANCE</b>
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**CERTIFICATION BY BIDDER'S INSURANCE AGENT/BROKER REGARDING BIDDER'S ABILITY TO OBTAIN  
REQUIRED INSURANCE COVERAGE AND ENDORSEMENTS**

I hereby certify that my client, as identified below, will be able to meet all of the insurance requirements of Attachment B, has been advised of any additional costs associated with doing so, and has agreed to obtain such coverage and endorsements if selected as the successful bidder of the RFB to which my client has responded:

Project Name and Number: \_\_\_\_\_

Legal Name of Bidder: \_\_\_\_\_

Name/Address of Insurance Agency:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Name of Agent/Broker (Print): \_\_\_\_\_

Signature of Agent/Broker: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

## BID PRICING SUBMITTAL FORM

The Contractor shall, at its sole cost and expense, provide, perform and complete in the manner described and specified in this Request for Bid all necessary work, labor, services, transportation, equipment, materials, apparatus, information, data, freight and other items necessary to accomplish the Project as defined below, in accordance with the Scope of Work as described in Section 4.0. The Work will also include procuring and furnishing all approvals and authorizations, permits, and certificates and policies of insurance as specified herein necessary to complete the Project.

### ALL INCLUSIVE RATES

All rates are to be all-inclusive and shall include labor, mileage, insurance, mobilization, demobilization, equipment, vehicles, data base, travel expenses, lodging, office supplies, office equipment, photocopying, overhead and profit and all other expenses necessary to complete the referenced project according to "normal" industry standards per the specifications, exclusive of all taxes. Overhead shall include all costs associated with project management, corporate accounting, invoice preparation, office rental and all other expenses indirectly associated with the project. Actual travel time to and from the work location is not reimbursable under this contract. The City will not pay for any additional expenses.

Description	Firm-Fixed Price
Firm-Fixed price for damage assessment and inspection of nine (9) outdoor water slides and provide scope of work for repairs per the specifications	\$

Name of Company: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## SIGNATURE PAGE FORM

The undersigned, having examined these documents and having full knowledge of the condition under which the Work described herein must be performed, hereby proposes fulfillment of the obligations contained herein in accordance with all insurance documents, instructions, terms, conditions, and specifications set forth; and that all required Work be furnished and that all incidental costs be paid in strict conformity with these documents, for the stated prices as payment in full.

Submitting Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Authorized Representative (print): \_\_\_\_\_ Title: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_ E-mail: \_\_\_\_\_

Phone # ( ) \_\_\_\_\_ Fax # ( ) \_\_\_\_\_

Federal ID Number \_\_\_\_\_

D-U-N-S (<https://fedgov.dnb.com/webform>) \_\_\_\_\_

Iowa Department of Labor Registration Number, if applicable \_\_\_\_\_

The State of Iowa requires that all individual contractors and businesses performing "construction" work within Iowa be registered with the Division of Labor and renew that registration annually. More information about this law can be found at <http://www.iowaworkforce.org/labor/contractor.htm>

### FIRM PRICING

Offered pricing shall remain firm for a minimum of sixty (60) days after the due date of this solicitation unless indicated otherwise. Accepted pricing shall remain firm for the duration of the contract.

### ADDENDA {It is the Bidder's responsibility to check for issuance of any addenda}

The above-signed hereby acknowledges receipt of the following addenda:

Addenda Number: \_\_\_\_\_ Date: \_\_\_\_\_ Addenda Number: \_\_\_\_\_ Date: \_\_\_\_\_

Addenda Number: \_\_\_\_\_ Date: \_\_\_\_\_ Addenda Number: \_\_\_\_\_ Date: \_\_\_\_\_

### PAYMENT METHOD

Do you accept a credit card for payment of purchases? Yes ☐ No ☐

### QUICK PAY DISCOUNT

If you provide a discount for quick payment, please state the discount and terms: \_\_\_\_\_ % \_\_\_\_\_ days

Does this discount apply to payments made by MasterCard? Yes ☐ No ☐

### PROPOSED SUBCONTRACTORS (Reference General Terms and Conditions, section titled *Subcontracting*).

If awarded this project, do you plan to use any subcontractors? Yes ☐ No ☐ If yes, list information below.

Subcontractor Company Name	Address	IA Contractor Registration #

☐ We choose not to bid at this time. ☐ We would like to be considered for future solicitations.

## ATTACHMENT D – FEDERAL REGULATIONS (FEMA)

### NOTICE: THIS IS A FEDERALLY FUNDED PROJECT

**AWARDING AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security.

Funding, in whole or in part, for this Project is through a Public Assistance grant from FEMA therefore all provisions of 2 CFR §§ 200.317 through 200.326 under the Uniform Administrative Requirements (“Uniform Rules”) apply to this Project.

Federal Law requires that contracts relating to the Project include certain provisions of 2 CFR §§ 200.317 through 200.326 under the Uniform Administrative Requirements. Depending upon the type of work or services provided and the dollar value of the Project, some of the provisions set forth in 2 CFR §§ 200.317 through 200.326 may not apply to the Contractor or to the work or services to be provided hereunder; however, the provisions are nonetheless set forth to cause this Project to comply with Federal Law.

This Project will be in strict compliance with program requirements of the Awarding Agency and of 2 CFR §§ 200.317 through 200.326.

- (1) **Remedies.** Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold) **Reference Sections titled *Termination, City’s Right to Withhold, Disputes, and Warranties.***
- (2) **Termination for Cause and Convenience.** Termination for cause and for convenience by the recipient or sub-recipient including the manner by which it will be affected and the basis for settlement. (All contracts in excess of \$10,000) **Reference Section titled *Termination.***
- (3) **Not to Exceed – Contract Amendments.** The Contractor shall not exceed the maximum fees, as noted in the Section titled *Compensation*, without a prior written request to the City of Cedar Rapids, Iowa and authorization by written amendment to the Contract, including a change to the Scope of Work. The written request shall include documentation and justification for such request including a detailed cost and schedule impact to the Project. **Reference Section titled *Contract Amendments***
- (4) **Retention of all required records.** Records shall be retained for three years after recipients or sub-recipients make final payments and all other pending matters are closed. **The City’s requirement is 5 years; reference Section titled *Treatment of Documents.***
- (5) **Access to Records.**
  - a) The Contractor agrees to provide the City of Cedar Rapids, Iowa, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
  - b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
  - c) The Contractor agrees to provide the FEMA Administrator or authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (6) **Equal Employment Opportunity.** Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity”, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

**During the performance of this contract, the Contractor agrees as follows:**

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be

provided setting forth the provisions of this nondiscrimination clause.

- b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended and supplemented, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended and supplemented, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 as amended and supplemented, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, as amended and supplemented, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States."

(7) **Compliance with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act.**

- a) **Applicability of Davis-Bacon Act.** The Davis-Bacon Act only applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- b) All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II, ¶ D.
- c) In accordance with the statute, Contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors must be required to pay wages not less than once a week.
- d) The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e) In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides

that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

- f) In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback" Act. However, for purposes of grant programs where both clauses do apply, FEMA requires the following:
- i. Contractor. The Contractor shall comply with 18 USC § 874, 40 USC § 3145 and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract.
  - ii. Subcontracts. The Contractor or Subcontractor shall insert in any subcontract the clause above and other such clauses as the FEMA may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all of these contract clauses.
  - iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and Subcontractor as provided in 29 CFR § 512.

- (8) Compliance with the Contract Work Hours and Safety Standards Act. Applicable for all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 USC §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 CFR Part 5.

- a) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
- c) Withholding for unpaid wages and liquidated damages. The City of Cedar Rapids, Iowa shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- d) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (a) through (d) of this section."

- (9) Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more must file the required certification.

- (10) Procurement of Recovered Materials.

- a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired:
  - Competitively within a timeframe providing for compliance with the contract performance schedule;



- Meeting contract performance requirements; or
  - At a reasonable price.
- b) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>.  
The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.
- (11) **Compliance with the Clean Air Act.** Applicable for contracts of amounts in excess of \$150,000.
- a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
  - b) The Contractor agrees to report each violation to the City of Cedar Rapids, Iowa and understands and agrees that the City of Cedar Rapids, Iowa will, in turn, report each violation as required to assure notification to the State of Iowa, the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
  - c) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.
- (12) **Compliance with the Federal Water Pollution Control Act.** Applicable for contracts of amounts in excess of \$150,000.
- a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
  - b) The Contractor agrees to report each violation to the City of Cedar Rapids, Iowa and understands and agrees that the City of Cedar Rapids, Iowa will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
  - c) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.
- (13) **Suspension and Debarment.** Applicable to all FEMA grant and cooperative agreement programs.
- a) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
  - b) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
  - c) This certification is a material representation of fact relied upon by the City of Cedar Rapids, Iowa. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Iowa and the City of Cedar Rapids, Iowa, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
  - d) The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- (14) **No Obligation by Federal Government.** The Federal Government is not a party to this contract and is not subject to any obligation or liabilities to the non-Federal entity, Contractor or any other party pertaining to any matter resulting from the contract.
- (15) **Program Fraud and False or Fraudulent Statements or Related Acts.** The Contractor acknowledges that 31 USC Chap 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to the contract.
- (16) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201).
- (17) Notice of awarding agency requirements and regulations pertaining to reporting.

- (18) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- (19) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- (20) **Bonding Requirements.** Applicable for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (\$150,000), the awarding agency may accept the bonding policy and requirements of the recipient (State if Iowa) or sub-recipient (City of Cedar Rapids) provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:
  - a) A bid guarantee from each Contractor equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the Contractor will, upon acceptance of its bid, execute such contractual documents as may be required within the time specified.
  - b) A performance bond on the part of the Contractor for 100 percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract. **(In compliance with State Law, the City of Cedar Rapids will require a performance bond for construction or facility improvement contracts exceeding \$25,000.)**
  - c) A payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. **(In compliance with State Law the City of Cedar Rapids will require a payment bond for construction or facility improvement contracts exceeding \$25,000.)**