

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

CONTRACTUAL AGREEMENT BETWEEN
BALDWIN COUNTY COMMISSION
AND THE ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

This Agreement is entered into between Baldwin County Commission (Contractor) and the Alabama Department of Environmental Management (Department). This Agreement will provide for the collection, management, disposal, and/or offering for beneficial use of discarded tires and regulated solid waste funded by the Scrap Tire Fund, for work performed within the State of Alabama.

The parties hereto agree as follows:

1. Scope of Services

The Contractor will provide services as set out in the Scope of Services, which is included in this Agreement as Attachment A, and which is incorporated as if fully set out herein.

2. Payment

A. The Department agrees to reimburse the Contractor an amount not to exceed \$150,000 for the services performed under this Agreement. Unless otherwise specified in the work-plan, mileage, travel and per diem costs will be reimbursed in accordance with state law.

B. The Contractor shall submit invoices in triplicate not more than once per quarter to the Department for actual cost incurred. The final invoice shall be submitted within thirty (30) days of expiration of this Agreement.

C. In the case of non-governmental agencies, prior to the purchase of any items or the execution of any printing contracts under this agreement with a value less than \$1,000.00, one quote or attempt for a quote of outside costs, including but not limited to copying costs and freight terms, must be obtained. For items with a value from \$1,000.00 to \$3,000.00, two such quotes or attempts for quotes must be obtained. For items with a value from \$3,000.00 to \$7,499.00, three such quotes or attempts for quotes must be obtained. The purchase of any items or the execution of any contract shall comply with the Alabama Procurement Law Sections 41-16-50 et. Seq. of the Code of Alabama, as amended.

D. The Contractor is aware of the critical time schedule for completion of the remediation work as described herein and that said work is to be completed in strict compliance with the remediation plan and hereby agrees to compensate the Department for damages caused by not completing the work specified or within the time period shown herein. The number of damages shall be calculated and retained by the Department from the sum due the Contractor. The Contractor hereby agrees that liquidated damages in the amount of \$250.00 per day may be retained and assessed against the Contractor for each and every day the completion of the work is delayed beyond the time specified date herein, not as a penalty, but as a mutually agreed to, predetermined amount to reimburse the Alabama Solid Waste Remediation Fund for costs associated with the delay to include the assignment of the project to another contractor, if deemed necessary by the Department. Furthermore, the Contractor hereby agrees that liquidated damages in an amount to be determined by the Department and calculated based on a minimum of \$500.00 up to 10 percent (10%) of the total contract price per breach or deviation from the contract or remediation plan and may be retained and/or assessed against the Contractor. The Contractor may for each and every said breach or deviation from the remediation plan be assessed liquidated damages as specified herein, not as a penalty, but as a mutually agreed to, predetermined amount to reimburse the Alabama Solid Waste Remediation Fund for the costs associated with any breach or deviation from the remediation plan and to include the cost of assignment of the project to another contractor for proper remediation consistent with said remediation plan, if deemed necessary by the Department.

3. Term of Agreement

All work performed under this Agreement shall begin on the date on which this Agreement is executed and shall terminate on 9/30/2027 12:00:00 AM. This Agreement is conditioned upon the receipt of sufficient funds from the Alabama Legislature and/or the Scrap Tire Fund and is subject to termination in the event of proration of the fund from which payment under this Agreement is to be made. If the term of this Agreement extends beyond one fiscal year, this Agreement is subject to termination in the event that funds are not appropriated for the continued payment of the contract in subsequent fiscal years. This Agreement may be amended by the mutual written agreement of both parties.

4. Termination of Agreement for Cause

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if the Contractor shall violate any of the covenants, agreements or stipulations of this Agreement, the Department shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In that event, any finished or unfinished studies, reports or other work by the Contractor shall, at the option of the Department, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed under this Agreement.

5. Termination for Convenience of the Department

The Department may terminate this Agreement at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 30 days before the effective date of such termination and under the same conditions as herein set forth for the Department, the Contractor may cancel this Agreement. In the event of cancellation, all finished or unfinished studies, reports or other work by the Contractor shall, at the option of the Department, become its property. If the Agreement is terminated by the Department as provided herein, the Contractor shall be paid for all work satisfactorily completed prior to termination.

6. Changes

The Department may, from time to time, require changes in the scope of services of the Contractor to be performed hereunder. Such changes, including any increases or decreases in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Department and the contractor shall be incorporated in written amendments to this Agreement.

7. Title VI and Equal Employment Opportunity

The Contractor will comply with Title VI of the Civil Rights Act of 1964 (88-352) and all requirements of the U. S. Environmental Protection Agency (hereinafter called "EPA") issued pursuant to that title, to the end that in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this contract.

There shall be no discrimination against any employee who is employed in the work covered by this Agreement, or against any applicant for such employment, because of race, color, religion, sex, national origin, age, or disability covered by the Americans with Disabilities Act. This provision 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 shall insert a similar provision in all subcontracts for services covered by this Agreement.

8. Interest of Members of the Department and Others

No officer, member or employee of the Department and no members of the Environmental Management Commission, and no other public official of the governing body of the locality or localities in which the project is situated or being carried out who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

9. Assignability

The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Department.

10. Findings Confidential

Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Agreement which the Department requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the Department, unless such confidentiality would be contrary to the law of the State of Alabama or the United States.

11. Acknowledgment

Videos, films, computer disks, printed information or other materials produced for dissemination under this agreement must include the Department's logo, prominently displayed, along with the following acknowledgment:

"This project was funded or partially funded by the Alabama Department of Environmental Management."

12. Reproducible Materials

Any printed information, photographs or art works delivered to the Department under this agreement shall be camera ready and/or computer ready as appropriate. The master tape of any video or audio productions will be delivered to the Department in an immediately reproducible form. Any computer program generated under this agreement will be delivered to the Department in an original and immediately reproducible form.

13. Officials Not to Benefit

No member of or delegate to the Congress of the United States of America, and no resident commissioner, shall be admitted to any share or part hereof or to any benefit to arise herefrom.

14. Copyright

No reports, maps, or other documents or products produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the contractor.

15. Audits and Access to Records

The Contractor agrees to abide by the requirements of the federal Single Audit Act and OMB's Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (commonly called Uniform Guidance). When financial statements are prepared, and an audit is performed as a result of OMB Uniform Guidance requirements the Contractor shall provide the Department with a copy of its audit report covering the period of this contract within thirty (30) days of receipt by the Contractor of the auditor's report.

If OMB Uniform Guidance is applicable, the Subrecipient agrees that the Comptroller General of the United States or any of his/her duly authorized representatives, the EPA Office of Inspector General or any of his/her duly authorized representatives, the Director of the Department or any of his/her duly authorized representatives, and the Chief Examiner of the Department of Examiners of Public Accounts and any of his/her duly authorized representatives shall, until the expiration of three (3) years from the date of submission of the final financial report, (ninety days after), have access to and the right to audit, examine, and make excerpts or transcripts from any directly pertinent books, documents, papers, and records of the Subrecipient involving transactions related to this Agreement. This right of access also includes timely and reasonable access to the recipient and subrecipient's personnel for the purpose of interview and discussion related to such documents. The Subrecipient agrees to provide access to any or all documents, papers, records and directly pertinent books of the Subrecipient involving transaction related to this Agreement upon written request from the Director of the Department.

16. Taxes

The Contractor is responsible for reporting and making payment of any applicable federal and state taxes which may be due as a result of payments received pursuant to this Agreement.

17. Contractor Not Entitled to Merit System Benefits

In the case of Non-State Agencies under no circumstances shall the Contractor or any of its employees be entitled to receive the benefits granted to State employees under the Merit System Act by reason of this Agreement.

18. Not to Constitute a Debt of the State/Settlement of Claims

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this contract shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this contract, be enacted, then the conflicting provision in the contract shall be deemed null and void. The contractor's sole remedy for the settlement of any and all disputes arising under the terms of this agreement shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

For any disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative hearings or where appropriate, private mediators.

19. Requisite Reviews and Approvals

Baldwin County Commission acknowledges and understands that this contract is not effective until it has received all requisite state government approvals and Baldwin County Commission shall not begin performing work under this contract until notified to do so by the Alabama Department of Environmental Management. Baldwin County Commission is entitled to no compensation for work performed prior to the effective date of this contract.

20. Immigration Affirmation

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.

21. Prohibition against Boycotting by Contractors

In compliance with Act 2016-312, the Contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this State can enjoy open trade.

22. Suspension and Debarment

The Contractor certifies to the best of its knowledge and belief that it and the principals are in compliance with the requirements of 2 CFR 180.335 and understands that falsely representing this certification by accepting the terms and conditions of this contract may result in the rejection of this proposal or termination of the award.

23. No Funds for Lobbying Clause.

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

24. Economic Boycott

"In compliance with Ala. Act No. 2023-409, by signing this contract, Contractor provides written verification that Contractor, without violating controlling law or regulation, does not and will not, during the term of the contract engage in economic boycotts as the term "economic boycott" is defined in Section 1 of the Act."

BALDWIN COUNTY COMMISSION

By: _____
Billie Jo Underwood,
Chairman

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



By: _____
Lance R. LeFleur
Director

Digitally Signed By
Jeff Kitchens
08/20/2024, 11:44



As to Legal Form

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on this the _____ day of _____, 2024.

ATTACHMENT A

SCOPE OF SERVICES

This Scope of Services is applicable to the collection, management, recycling, beneficial re-use and, as a last resort, disposal of discarded scrap tires or scrap tire materials funded by the Alabama Scrap Tire Fund. The associated contractual agreement shall reimburse expenses associated with the services described below up to **\$150,000** for the duration of the contract or until the contract is otherwise modified or terminated.

The Baldwin County Commission shall furnish all necessary labor, supervision, equipment, tools, materials, supplies, and any other items or activities related to providing the following services:

1. The collection of discarded scrap tires or scrap tire materials from county right-of-way (ROW) locations:
 - A. To be eligible for reimbursement under this scope of services, the above referenced locations (sites) cannot qualify as scrap tire sites or STSs (i.e., sites that contains more than 100 scrap tires) or unauthorized solid waste dumps or UADs as defined in ADEM Division 4 and 13 Regulations (i.e., sites that contains more than 10 cubic yards of regulated solid waste). If a site does qualify as a STS or a UAD, it is to be referred to the Department for its consideration and action.
 - B. Discarded scrap tires or scrap tire materials shall only be collected from county ROW property, monitored collection centers and/or other locations where nonprofit organizations (e.g., Adopt-a-Mile, Adopt-a-Stream, PALS, Clean Water Partnerships, etc.) are conducting a cleanup.
 - C. Subject to Department approval, the above services may be performed by nonprofit organizations (such as those referenced above) in lieu of the County.
 - D. All collected scrap tires or scrap tire materials shall be transported to the sites referenced in Condition 1.E., as they become available and as approved by the Department.
 - E. The Department is currently developing a network of tire processing operations in several locations throughout the state. As the availability of a processor in your area becomes available, the County will be required to transport all scrap tires or scrap tire materials managed under this contract to one of these locations unless the County can demonstrate to the Department that this requirement is unreasonable.
2. The County may accept eight (8) or less tires from individuals (proven to reside in the county) at no charge to the individual, to be recycled along with those scrap tires or scrap tire material collected under this contract (see Conditions 1.B. and 3.A.).
3. The proper management of the collected scrap tires or scrap tire materials in an appropriate manner until such time as they are recycled or disposed:

- A. The County may establish monitored collection center(s) for scrap tires collected from the ROWs within its jurisdiction. Such collection centers will be subject to prior approval by the Department and will be subject to certain requirements and limitations.
4. The County shall transport the collected scrap tires or scrap tire material to a Department-approved recycling facility for beneficial re-use or, as a last resort, to a permitted disposal facility. All collected scrap tires and scrap tire material shall be transported to the sites referenced in Condition 1.E., as they become available and as approved by the Department.
5. The County will conduct site restoration activities to minimize erosion for those areas where soils have been disturbed by heavy machinery, if required.
6. The County will submit to the Department, no more than once per quarter, a Payment Request and supporting documentation for the collection, management, recycling, beneficial re-use, or disposal of all collected scrap tires or scrap tire materials:
 - A. The payment request must include, at a minimum, the following: appropriate receipts, labor and equipment breakdown and costs, current industry standard equipment rates, scrap tire manifests, end-user agreements, and any documents deemed by the Department to be relevant to the clean-up, recycling or disposal of scrap tires or scrap tire materials.
 - B. The Department will neither accept nor approve payment requests submitted outside of the current fiscal year, unless submitting for the fourth quarter of that current fiscal year.
7. The County shall use the Alabama Environmental Permitting and Compliance System's (AEPACS) external portal to receive and submit all documentation associated with this program going forward (see Condition 6.A.). All counties, County Commissioners and their authorized representatives, enrolled in the Scrap Tire ROW program will be given access to the AEPACS portal and instructions on how to use the external portal to complete and submit their required documentation.
8. The Department reserves the right to withhold reimbursement for any services deemed unrelated to the collection, management, recycling and disposal of discarded scrap tires or scrap tire materials such as overtime or weekend hours, supplementing of county employee salary, unreasonable equipment or employee costs, or any other cost deemed by the Department to be unrelated to the collection and disposal of scrap tires or scrap tire materials. The Scrap Tire ROW Program was established as a courtesy to help counties offset the costs associated with the removal of scrap tires found along their county right-of-ways. Before submitting a Payment Request, the responsible county personnel should contact the Department with questions regarding acceptable reimbursements.

This agreement shall remain valid from date of execution of the interagency cooperative agreement until 9/30/2027 12:00:00 AM.