

10.2.2 Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the CITY or subject the CITY to liability of any kind to any subcontractor. The CONSULTANT shall supply the names and addresses of subcontractors and material suppliers when requested to do so by the CITY upon activation of the Agreement and updated by the CONSULTANT to the CITY on a biweekly basis during said activation.

10.2.3 The CONSULTANT shall not use a subcontractor or material supplier against whom the CITY has a reasonable objection to and shall to the extent practicable subcontract with local firms within the CITY and surrounding area.

10.2.4 No subcontract shall, under any circumstances, relieve the CONSULTANT of its liability and obligations under this Agreement and all transactions with the CITY must be through the CONSULTANT.

Article 11 – Special Conditions

11.1 Independent Consultant: All employees of the CONSULTANT shall be, at all times, the sole employees of the CONSULTANT under its sole discretion and not an employee or agent of the CITY. The CONSULTANT shall supply competent and physically capable employees who shall have and wear proper identification. The CITY reserves the right to require the CONSULTANT to remove an employee the CITY deems careless, incompetent insubordinate or otherwise objectionable and whose continued employment on CITY property is not in the best interest of the CITY. The CITY also reserves the right to dismiss any of the CONSULTANT'S drivers who fail to follow proper safety and traffic rules and regulations.

11.3 Work Hours: CONSULTANT will conduct its services at the times and dates necessary and appropriate to perform its duties as provided for in this Agreement.

Article 12 – General Conditions

12.1 Interpretation and Venue: This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with the laws of the State of Mississippi. Venue for any legal action resulting from this Agreement shall lie in Jackson County, Mississippi.

12.2 Captions: The captions utilized in this Agreement are for the purposes of identification only and do not affect the meaning or interpretation of any of the provisions hereof.

12.3 Amendment: This Agreement may not be amended, released, discharged, rescinded or abandoned, except by written instrument duly executed by each of the parties hereto.

12.4 Waiver: The failure of either party hereto at anytime to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver or relinquishment of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

12.5 Civil Rights: During the term of this Agreement CONSULTANT assures the CITY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, in the CONSULTANT does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discriminate in any form or manner against CONSULTANT'S employees or applicants for employment. CONSULTANT understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

12.6 Other Laws: CONSULTANT shall, at all times, comply with all federal, state and local laws, rules and regulations.

12.7 Severability: The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

12.8 Records: CONSULTANT shall keep records and accounts of all services provided under this Agreement and require any and all contractors and subcontractors to keep records and accounts of all services provided as may be necessary in order to record complete and correct entries as to the fees and expenses charged for services under this Agreement. Such books and records will be available at all reasonable times for examination and audit by the CITY and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by the CITY of any fees or expenses based upon such entries. All records developed subject to this Agreement shall be deemed public records and subject to inspection in accordance with Mississippi Statutes.

12.9 Independent Contractor: This Agreement does not create an employee/ employer relationship between both Parties. It is the intent of both Parties that this CONSULTANT is an independent contractor under this Agreement and not the CITY'S employee for all purposes, including but not limited to the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONSULTANT shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONSULTANT'S activities and responsibilities hereunder provided, further and administrative procedures applicable to services rendered under this Agreement shall be those of the CONSULTANT, which policies of CONSULTANT shall not conflict with the CITY of United States policies, rules and regulations relating to the use of CONSULTANT'S funds provided for herein. The CONSULTANT agrees that it is a separate and independent enterprise from the CITY, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONSULTANT and the CITY and the CITY will not be liable for any obligation incurred by CONSULTANT, including but not limited to, unpaid minimum wages and/or overtime premiums.