



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 11/20/2025

File ID: TMP-5793

Department: Engineering

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to execute Final Change Order No. 2 to the Agreement between the City of Huntsville, Alabama and Grayson Carter & Son Contracting, Inc., for Pratt Avenue Streetscape Improvements, Project No. 71-22-SP18 & ALDOT Project No. TAPHV-TA23(933).

Resolution No.

Finance Information:

Account Number: 3080-71-00000-524000-BUDGET01-

City Cost Amount: \$61,219.38

Total Cost: \$881,837.93

Special Circumstances:

Grant Funded: N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address: N/A

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments:

Final adjusting change order to Pratt Avenue Streetscape Improvements associated with site modifications to retain existing large trees within the right-of-way.

RESOLUTION NO. 25-

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama that the Mayor be, and is hereby authorized, to execute Change Order No. 2 to the Contract between the City of Huntsville, Alabama and Grayson Carter & Son Contracting, Inc., as is reflected on Change Order No. 2 attached hereto.

BE IT FURTHER RESOLVED that the total Contract amount be and is hereby amended from EIGHT HUNDRED TWENTY THOUSAND SIX HUNDRED EIGHTEEN AND .55/100 DOLLARS (\$820,618.55) to EIGHT HUNDRED EIGHTY-ONE THOUSAND EIGHT HUNDRED THIRTY-SEVEN AND .93/100 DOLLARS (\$881,837.93) including this Change Order No. 2, an increase of SIXTY-ONE THOUSAND TWO HUNDRED NINETEEN AND .38/100 DOLLARS (\$61,219.38). Said Change Order is substantially similar in words and figures as that document attached hereto and identified as “Change Order No. 2 to the Contract between the City of Huntsville, Alabama and Grayson Carter & Son Contracting, Inc., for Pratt Avenue Streetscape Improvements, Project No. 71-22-SP18 & ALDOT Project No. TAPHV-TA23(933),” consisting of two (2) pages plus fourteen (14) additional pages consisting of “Power of Attorney,” “Contractor’s E-Verify Statement” and “Memorandum of Understanding” with the date of November 20, 2025, and an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 20th day of November, 2025.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 20th day of November, 2025.

Mayor of the City of Huntsville,
Alabama

FINAL CHANGE ORDER REQUEST						
OWNER				ARCHITECT/ENGINEER		CONTRACTOR
City of Huntsville				N/A		Grayson Carter & Son Contracting, Inc.
DATE		11/20/2025		CHANGE ORDER NO.	2	
PROJ. NAME & NUMBER		Pratt Avenue Streetscape Improvements, Project No. 71-22-SP18 & ALDOT Project No. TAPHV-TA23(933)				
NEW NEGOTIATED ITEMS						
ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE		EXT AMT.
660J000	Plant Mulch	31.92	CY	\$114.04		\$3,640.16
424B-643	Superpave Bituminous Concrete Upper Binder Layer, Leveling, 3/4" Maximum Aggregate Size Mix, ESAL Range A/B	206.58	TON	\$114.18		\$23,587.30
680A-002	Geometric Controls - Supplemental	1.00	LS	\$12,333.29		\$12,333.29
			TOTAL NEW NEGOTIATED ITEMS			\$39,560.75
OVERRUN ITEMS						
ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE		EXT AMT.
206C-000	Removing Concrete Sidewalk	486.89	SY	\$7.15		\$3,481.26
206D-000	Removing Pipe	100.5	LF	\$17.02		\$1,710.51
206D-007	Removing Concrete Flume	35	LF	\$29.67		\$1,038.45
206E-001	Removing Inlets	1	EA	\$350.45		\$350.45
405A-000	Tack Coat	137	GAL	\$4.75		\$650.75
408B-001	Micro-Milling Existing Pavement (Approximately 1.10" Thru 2.00" Thick)	1770.99	SY	\$1.63		\$2,886.71
424B-635	Superpave Bituminous Concrete Upper Binder Layer, 3/4" Maximum Aggregate Size Mix, ESAL Range A/B	163.12	TON	\$97.12		\$15,842.21
424B-639	Superpave Bituminous Concrete Upper Binder Layer, Patching, 3/4" Maximum Aggregate Size Mix, ESAL Range A/B	133.96	TON	\$161.46		\$21,629.18
530A-001	18" Roadway Pipe (Class 3 R.C.)	139	LF	\$63.60		\$8,840.40
530B-002	29" Span, 18" Rise Roadway Pipe (Class 3 R.C.)	89	LF	\$108.33		\$9,641.37
618A-000	Concrete Sidewalk, 4" Thick	470.22	SY	\$51.80		\$24,357.40
618B-003	Concrete Driveway, 6" Thick (Includes Wire Mesh)	235.22	SY	\$92.61		\$21,783.72
618C-001	Detectable Warning Surface	18	SF	\$33.94		\$610.92
618D-000	Curb Ramp	66.85	SY	\$198.41		\$13,263.71
621A-011	Junction Boxes, Type 1 Or 1P	10	EA	\$2,960.77		\$29,607.70
621A-057	Junction Boxes, Type Partial	1	EA	\$3,158.72		\$3,158.72
621B-011	Junction Box Units, Type 1 Or 1P	6	EA	\$1,404.19		\$8,425.14
621C-001	Inlets, Type B	2	EA	\$4,153.90		\$8,307.80
621C-161	Grate Inlets	2	EA	\$3,679.48		\$7,358.96
623A-001	Concrete Gutter (Valley)	37	LF	\$31.25		\$1,156.25
623B-000	Concrete Curb, Type N	58	LF	\$18.52		\$1,074.16
650A-000	Topsoil	537.68	CY	\$24.25		\$13,038.74
654A-001	Solid Sodding (Bermuda)	1249.18	SY	\$4.84		\$6,046.03
740E-000	Cones (36 Inches High)	30	EA	\$22.62		\$678.60
740M-001	Ballast For Cone	30	EA	\$12.73		\$381.90
305B-071	Coarse Aggregate, Section 801, For Miscellaneous Use	916	TON	\$40.99		\$37,546.84
			TOTAL OVERRUN ITEMS			\$242,867.89
UNDERRUN ITEMS						
ALDOT ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE		EXT AMT.
210B-001	Selective Clearing	1.5	AC	\$3,000.00		-\$4,500.00
210A-000	Unclassified Excavation	754.64	CY	\$15.46		-\$11,666.73
210D-001	Borrow Excavation (Loose Truckbed Measurement)	566	CY	\$20.65		-\$11,687.90
214A-000	Structure Excavation	234	CY	\$9.73		-\$2,276.82
214B-001	Foundation Backfill, Commercial	867.1	CY	\$27.71		-\$24,027.34
301A-012	Crushed Aggregate Base Course, Type B, Plant Mixed, 6" Compacted Thickness	982.56	SY	\$12.28		-\$12,065.84
401A-000	Bituminous Treatment A	2694	SY	\$1.69		-\$4,552.86
410H-000	Material Rembing Device	1	EA	\$0.00		\$0.00
424A-338	Superpave Bituminous Concrete Wearing Surface Layer, Leveling, 3/8" Maximum Aggregate Size Mix, ESAL Range A/B	150	TON	\$114.18		-\$17,127.00
424A-340	Superpave Bituminous Concrete Wearing Surface Layer, 1/2" Maximum Aggregate Size Mix, ESAL Range A/B	48.53	TON	\$116.81		-\$5,668.79
430B-000	Aggregate Surfacing (ALDOT #467 Or #57)	215	TON	\$36.37		-\$7,819.55
533A-097	15 Inch Storm Sewer Pipe (Class 3 R.C.)	12	LF	\$62.72		-\$752.64
533A-098	18" Storm Sewer Pipe (Class 3 R.C.)	285	LF	\$61.64		-\$17,567.40
533A-099	24" Storm Sewer Pipe (Class 3 R.C.)	62	LF	\$84.78		-\$5,256.36
610D-003	Filter Blanket, Geotextile	167	SY	\$5.75		-\$960.25
621A-022	Junction Boxes, Type 1 (Modified)	3	EA	\$2,972.08		-\$8,916.24
621C-008	Inlets, Type E	1	EA	\$2,960.77		-\$2,960.77
621C-015	Inlets, Type S1 Or S3 (1 Wing)	2	EA	\$3,172.86		-\$6,345.72
621C-027	Inlets, Type C	2	EA	\$2,960.77		-\$5,921.54
621D-001	Inlet Units, Type B	1	EA	\$1,066.48		-\$1,066.48
621D-002	Inlet Units, Type C	2	EA	\$1,006.04		-\$2,012.08
621D-008	Inlet Units, Type E	1	EA	\$1,006.03		-\$1,006.03
621D-015	Inlet Units, Type S1 Or S3	3	EA	\$923.08		-\$2,769.24
621D-032	Inlet Units, Type Special	1	EA	\$1,479.12		-\$1,479.12
				Page 1		
623C-003	Combination Curb & Gutter, Type C (Modified)	133.5	LF	\$21.34		-\$2,848.89

Contractor's E-Verify Clause

Effective May 16, 2012, this notice shall be included in all competitively bid contracts awarded for labor, supplies, or services for the City of Huntsville, Alabama and in the award of all grants or incentives.

E-VERIFY – NOTICE

The Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535, Code of Alabama (1975) § 31-13-1 through 31-13-30 (also known as and hereinafter referred to as “ the Alabama Immigration Act”) as amended by Act No. 2012-491 on May 16, 2012 is applicable to all competitively bid contracts with the City of Huntsville. As a condition for the award of a contract and as a term and condition of the contract with the City of Huntsville, in accordance with § 31-13-9 (a) of the Alabama Immigration Act, as amended, any business entity or employer that employs one or more employees shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

During the performance of the contract, such business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. The business entity or employer shall assure that these requirements are included in each subcontract in accordance with §31-13-9(c). Failure to comply with these requirements may result in breach of contract, termination of the contract or subcontract, and possibly suspension or revocation of business licenses and permits in accordance with §31-13-9 (e) (1) & (2).

Code of Alabama (1975) § 31-13-9 (k) requires that the following clause be included in all City of Huntsville contracts that have been competitively bid and is hereby made a part of this contract:

“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.”



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**THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR EMPLOYERS**

**ARTICLE I
PURPOSE AND AUTHORITY**

The parties to this agreement are the Department of Homeland Security (DHS) and Grayson Carter & Son Contracting, Inc (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

**ARTICLE II
RESPONSIBILITIES**

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - a. Notice of E-Verify Participation
 - b. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.



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4 The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual

5 The Employer agrees that any Employer Representative who will create E-Verify cases will complete the E-Verify Tutorial before that individual creates any cases

a The Employer agrees that all Employer representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.

6 The Employer agrees to comply with current Form I-9 procedures, with two exceptions

a If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity. If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.

b If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

7 The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

8 The Employer agrees that, although it participates in E-Verify, the Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.

a The following modified requirements are the only exceptions to an Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When an Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, the Employer establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Employer must notify DHS and the Employer is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Employer continues to employ an employee after receiving a final nonconfirmation, then the Employer is subject to a rebuttable presumption that it has knowingly



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employed an unauthorized alien in violation of section 274A(a)(1)(A), and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify

b DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of E-Verify

9 The Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability.

10 The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

11 The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II B of this MOU.

12 The Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III B below) to contact DHS with information necessary to resolve the challenge.

13 The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(i)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status.



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(including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

14 The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

15 The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

16 The Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

17 The Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

18 The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon



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reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify

19 The Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false

20 The Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS

21 The Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see M-795 (Web)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify

22 The Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU

B. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1 If the Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors

2 In addition to the responsibilities of every employer outlined in this MOU, the Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Employer, the Employer may not create a second case for the employee through E-Verify

a An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later



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b Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

d Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e The Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as

- i That Form I-9 is complete (including the SSN) and complies with Article II A 6,
- ii The employee's work authorization has not expired, and
- iii The Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen)

f The Employer shall complete a new Form I-9 consistent with Article II A 6 or update the previous Form I-9 to provide the necessary information if

- i The Employer cannot determine that Form I-9 complies with Article II A 6,
- ii The employee's basis for work authorization as attested in Section 1 has expired or changed, or
- iii The Form I-9 contains no SSN or is otherwise incomplete

Note If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with



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Article II C 5, but reflects documentation (such as a U S passport or Form I-551) that expired after completing Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II A 5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual

g The Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor based on this Article

3 The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements

C. RESPONSIBILITIES OF SSA

1 SSA agrees to allow DHS to compare data provided by the Employer against SSA's database SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database

2 SSA agrees to safeguard the information the Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U S C § 552a), the Social Security Act (42 U S C 1306(a)), and SSA regulations (20 CFR Part 401)

3 SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry E-Verify provides the information to the Employer

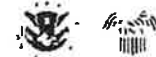
4 SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary In such cases, SSA will provide additional instructions to the employee If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer

Note If an Employer experiences technical problems, or has a policy question, the employer should contact E-Verify at 1-888-464-4218

D. RESPONSIBILITIES OF DHS

1 DHS agrees to provide the Employer with selected data from DHS databases to enable the Employer to conduct, to the extent authorized by this MOU

a Automated verification checks on alien employees by electronic means, and



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b Photo verification checks (when available) on employees

2 DHS agrees to assist the Employer with operational problems associated with the Employer's participation in E-Verify. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3 DHS agrees to provide to the Employer with access to E-Verify training materials as well as an E-Verify User Manual that contain instructions on E-Verify policies, procedures, and requirements for both SSA and DHS, including restrictions on the use of E-Verify.

4 DHS agrees to train Employers on all important changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials.

5 DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in E-Verify. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

6 DHS agrees to issue each of the Employer's E-Verify users a unique user identification number and password that permits them to log in to E-Verify.

7 DHS agrees to safeguard the information the Employer provides, and to limit access to such information to individuals responsible for the verification process, for evaluation of E-Verify, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security numbers and employment eligibility, to enforce the INA and Federal criminal laws, and to administer Federal contracting requirements.

8 DHS agrees to provide a means of automated verification that provides (in conjunction with SSA verification procedures) confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.

9 DHS agrees to provide a means of secondary verification (including updating DHS records) for employees who contest DHS tentative nonconfirmations and photo mismatch tentative nonconfirmations. This provides final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1 If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by E-Verify. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify



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case The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2 The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3 After a tentative nonconfirmation, the Employer will refer employees to SSA field offices only as directed by E-Verify. The Employer must record the case verification number, review the employee information submitted to E-Verify to identify any errors, and find out whether the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security number, or any other corrected employee information that SSA requests, to SSA for verification again if this review indicates a need to do so.

4 The Employer will instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

5 While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

6 The Employer agrees not to ask the employee to obtain a printout from the Social Security Administration number database (the Numident) or other written verification of the SSN from the SSA.

B. REFERRAL TO DHS

1 If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2 The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3 The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.

4 If the employee contests a tentative nonconfirmation issued by DHS, the Employer will instruct the



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employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days

5 If the Employer finds a photo mismatch, the Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally

6 The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Employer will send a copy of the employee's Form I-551, Form I-766, U S Passport, or passport card to DHS for review by

a Scanning and uploading the document, or

b Sending a photocopy of the document by express mail (furnished and paid for by the employer)

7 The Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch

8 DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary

9 While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates

ARTICLE IV SERVICE PROVISIONS

A. NO SERVICE FEES

1 SSA and DHS will not charge the Employer for verification services performed under this MOU The Employer is responsible for providing equipment needed to make inquiries To access E-Verify, an Employer will need a personal computer with Internet access

ARTICLE V MODIFICATION AND TERMINATION

A. MODIFICATION

1 This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties

2 Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes



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B. TERMINATION

1 The Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties

2 Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established E-Verify procedures and/or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Employer's business.

3 An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, then that Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

4 The Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Employer is terminated from E-Verify.

ARTICLE VI PARTIES

A Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

B Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

C The Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.

D Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of HIRIRA to any action taken or allegedly taken by the Employer.

E The Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to,