**Declaration of Emergency Template**

Revised June 2022

**(*Owner Letterhead*)**

(*Date*)

Honorable Kay Ivey, Governor

State of Alabama

Alabama State Capitol

Montgomery, AL 36130

(*only if Section 41-16-72(6) applies:*)

Attorney General Steve Marshall

Attorney General’s Office

501 Washington Avenue

Montgomery, AL 36104

Re: Declaration of Emergency: (*use “Emergency” in the Project Name*)

 Location: (*specify rooms, building, etc. if needed*)

Dear Governor Ivey:

I, [name], [title], hereby declare, under oath, an emergency affecting [type of emergency] *(see page 2 for type emergencies and requirements of Section* 29-2-41.1*)* of [Owner entity name] in accordance with Sections [29-2-41.1, 39-2-2(e), and/or 41-16-72(6)], Code of Alabama 1975(*indicate which Section(s) applies to your emergency, per Code Sections on page 2)*. I further state the emergency is declared for and described as the following:

(*Briefly describe the emergency affecting any of the following applicable basis: public health, safety, security, convenience involved in delay and/or economic welfare of the State*.)

[*Owner Entity Name*] intends to issue an Agreement Between Owner and Architect with [*Architectural/Engineering Firm Name*] for architectural/engineering services and intends to contract with a contractor, soliciting at least three proposals, for services to repair/replace (*briefly describe the repair and/or replacement work, which must be limited to meeting the emergency and cannot go beyond the scope of such work*) the condition creating the emergency.

If you have any questions regarding this matter, please do not hesitate to contact me at (*phone # and/or email address*).

Sincerely,

Signature

Printed name and title

Cc: Lee Desmond, Division of Construction Management Director, lee.desmond@realproperty.alabama.gov.

Code of Alabama, 1975, as amended, Title 29: LEGISLATURE

Chapter 2: Permanent Legislative Committees

**Section 29-2-41.1**

#### “Emergency provisions.

In case of an emergency adversely affecting public health, safety, security, or the economic welfare of the state, so declared in writing to the Governor by the head of the institution or agency involved, setting forth the nature of the danger to public health, safety, security or the economic welfare of the state, contracts may be let to the extent necessary to meet the emergency without review by the committee. Any contract let pursuant to this section involving an emergency adversely affecting the economic welfare of the state shall be let for a period of not more than 60 days during which time the committee shall review a contract for a longer period of time if such services are required beyond the 60-day limit hereby imposed.”

Division of Construction Management (DCM) note on Section 29-2-41.1:

* “committee” in the above Section refers to Contract Review Permanent Legislative Oversight Committee (CRPLOC); if you’re unsure whether or not a state agency is subject to CRPLOC, consult the state agency’s legal counsel.
* Agencies are encouraged to select one of the four reasons for an emergency: public health, safety, convenience, or economic welfare of the state. Whether an emergency contract must be submitted to CRPLOC depends on the type of emergency. Emergency contracts based on public health or safety are exempt from CRPLOC. Emergency contracts based on economic welfare are exempt from CRPLOC if they are for less than 60 days. Emergency contracts based on convenience must be submitted to CRPLOC.

Code of Alabama, 1975, as amended, Title 39: PUBLIC WORKS

Section 39-2-2: Advertisement for and opening of sealed bids for public works contracts; violations; exclusions; emergency actions; sole source specification.

**Section 39-2-2(e)**

“In case of an emergency affecting public health, safety, or convenience, as declared in writing by the awarding authority, setting forth the nature of the danger to the public health, safety, or convenience which would result from delay, contracts may be let to the extent necessary to meet the emergency without public advertisement. The action and the reasons for the action taken shall immediately be made public by the awarding authority upon request.”

DCM note on Section 39-2-2(e):

* Construction contracts for state agency emergency projects, Public School and College Authority (PSCA)-funded emergency projects (except for ACCS projects) including PSCA-funded public university emergency projects must be submitted to DCM for review. (DCM does not review fully locally-funded university construction contracts).
* Construction contracts for fully locally-funded K-12 emergency projects must be submitted to the State Department of Education (SDE) Local Education Agencies (LEA) Auxiliary Services, School Facilities’ office for review.

Code of Alabama, 1975, as amended, Title 41: STATE GOVERNMENT

Section 41-16-72: Procurement of Professional Services

**Section 41-16-72(6)**

“Should an emergency affecting the public health, safety, convenience, or the economic welfare of the State of Alabama so declared in writing under oath to the Governor and the Attorney General by the state entity requiring the professional services arise, the professional services required to alleviate the emergency situation may be procured from any qualified professional service provider without following the process or procedure required by this article.”

DCM notes on Section 41-16-72(6):

* Agreements Between Owner and Architect (O/A Agreements) for state agency emergency projects, and PSCA-funded emergency projects (except for ACCS projects) including PSCA-funded public university emergency projects must be submitted to DCM for review. (DCM does not review fully locally-funded university O/A Agreements).
* O/A Agreements for fully locally-funded K-12 emergency projects must be submitted to the SDE LEA Auxiliary Services, School Facilities’ office for review.

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Additional Instructions: Owners shall forward this letter to the Lead Design Professional. When bids for declared emergency projects are solicited without advertisement, the Architect/Engineer shall include the Owner’s Declaration of Emergency and an Invitation to Bid (see DCM Form C-1A: Sample Invitation to Bid) instead of the Advertisement For Bids in any project manual.