

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-32**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE RANKING AND RECOMMENDATION OF THE CITY'S EVALUATION TEAM OF THE DISASTER RESPONSE SERVICES RFP; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE CONTRACTS WITH THE TOP THREE RANKED FIRMS OF GRUBBS EMERGENCY SERVICES, LLC, D&J ENTERPRISES, INC AND DRC EMERGENCY SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") published a Request for Proposals (RFP) from experienced emergency and disaster response firms to provide services to the City in the event of a natural or man-made disaster; and

WHEREAS, the City Manager established an "Evaluation Team" consisting of City Staff to review, evaluate and rank qualifications packages in accordance with the RFP criteria; and

WHEREAS, on April 26th, the City Clerk received ten (10) responses to the RFP which were subsequently reviewed and evaluated by the City's Evaluation Team on May 3rd; and

WHEREAS, the City recommends the top three firms of Grubbs Emergency Services, LLC D&J Enterprises, Inc And DRC Emergency Services and requests the Council authorize the City Manager to negotiate contracts with those ranked firms.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

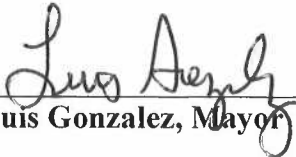
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council accepts the City's Evaluation Team ranking and authorizes the City Manager to negotiate contracts in the form of Exhibit A with the top three ranked firms.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11TH DAY OF MAY, 2021.

THE CITY OF MARATHON, FLORIDA


Luis Gonzalez, Mayor

AYES: Cook, Senmartin, Zieg, Gonzalez
NOES: None
ABSENT: Bartus
ABSTAIN: None

ATTEST:


Diane Clavier, City Clerk
(City Seal)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:


Steve Williams, City Attorney

**AGREEMENT BETWEEN
THE CITY OF MARATHON
GRUBBS EMERGENCY SERVICES
FOR DISASTER RECOVERY SERVICES**

THIS AGREEMENT is made as of this 11th day of May, by and between **GRUBBS EMERGENCY SERVICES, LLC.** (hereinafter the "Contractor"), and the **CITY OF MARATHON, FLORIDA**, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, the City issued a Request for Proposals for Disaster Recovery Services; and

WHEREAS, proposals were evaluated and ranked; and

WHEREAS, on May 11, 2021 the City Council approved the ranking of proposals for Disaster Recovery Services and authorized the City to execute an agreement with GRUBBS EMERGENCY SERVICES, LLC.; and

WHEREAS, the City and the Contractor desire to enter into this Agreement whereby the duties and obligation each to the other are set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the City agree as follows.

1. **Scope of Services**

- 1.1 The Contractor must meet the requirements and perform the services identified in the Request for Proposal Term Contract for Disaster Response Services published on March 30, 2021, (the "RFP"), and made a part hereof, and on file in the City Clerk's office, The Scope of Work listed in Exhibit A, and the Contractor's Proposal, (the "Proposal") attached hereto and made a part hereof, as Exhibit "B".
- 1.2 Contractor agrees and acknowledges that Contractor is prohibited from exempting provisions of the RFP, Proposal, or in this Agreement in any of Contractor's services pursuant to the Agreement.

2. **Term**

- 2.1 This Agreement shall begin on the date it is fully executed by both parties (the "Effective Date") and shall extend for Three (3) years from the date of execution (the "Term").

- 2.2 Execution of this contract does not guarantee the City will assign any work to the contractor. Any work assigned to the Contractor shall be at the City's own discretion. The city may assign limited scope of work and responsibility to the Contractor, and may choose to have more than one contractor perform services as determined to be in the best interest of the City.
- 2.3 After the initial term, the City shall have the option to renew for an additional term of three (3) years, and upon completion of that period, the City shall again have the option to renew for an additional term of three (3) years. The parties hereto may extend this Agreement by mutual consent, in writing, prior to the expiration of the current term. This provision in no way limits either party's right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 4 of the Agreement.
- 2.4 Contractor shall complete all services directed under this Agreement as soon as feasibly possible, and in the time necessary to accomplish the services, with the knowledge that time is of the essence. The scope and nature of the services to be performed will be directed by the City once the extent of damage has been determined. The City may impose liquidated damages of \$100.00 per day for breach of this paragraph. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City as a consequence of such delay, and both parties desiring to obviate any questions or dispute concerning the amount of said damages and the cost and effect of the failure of the Contractor to complete the services on time.

3. **Compensation**

- 3.1 The amount of compensation payable by the City to Contractor shall be based upon the rates and fees schedules as set forth in Exhibit "C", attached hereto and made a part hereof, which amount shall be accepted by Contractor as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by Contractor that these amounts are the maximum payable and constitute a limitation upon City's obligation to compensate Contractor for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon Contractor's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services as defined in Section 4 of the Proposal.
- 3.2 Contractor may submit an invoice for compensation, developed and agreed upon by the City Manager and Contractor, no more often than on a monthly basis, but only after the services for which the invoices are

submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of rates and fees with accrual of the total and credits for portions paid previously, and shall allocate the billing costs to the appropriate fund or combination of funds. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.

- 3.3 The City shall pay Contractor in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager for failure of Contractor to comply with a term, condition, or requirement of this Agreement.
- 3.4 Notwithstanding any provision of this Agreement to the contrary, the City Manager may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work of Contractor, which has not been remedied or resolved in a manner satisfactory to the City Manager. The amount withheld shall not be subject to payment of interest by the City.
- 3.5 Contractor agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which Contractor receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by the City.
- 3.6 If it should become necessary for the City to request the Contractor to render any additional services to either supplement the services described in the RFP or to perform additional work, such additional work shall be performed only as authorized by the City Manager or designee. Any such additional work agreed to by both parties shall be performed at the same rate in the schedules included in Exhibit "C".

4. **Termination**

- 4.1 This Agreement may be terminated for cause by the City Manager if the Contractor is in breach and has not corrected the breach within sixty (60) days after written notice from the City identifying the breach, or for convenience by action of the City Council upon not less than sixty (60) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

- 4.2 This Agreement may be terminated for cause by the Contractor if the City is in breach and has not corrected the breach within sixty (60) days after the written notice from the Contractor identifying the breach.
- 4.3 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of the City as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
- 4.4 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the City Manager which City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 4.5 In the event this Agreement is terminated for convenience, Contractor shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of City's election to terminate, Contractor shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by the City, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for the City's right to terminate this Agreement for convenience.
- 4.6 In the event this Agreement is terminated, any compensation payable by the City shall be withheld until all documents are provided to the City pursuant to Section 7.1 of this Agreement. In no event shall the City be liable to the Contractor for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

5. **Indemnification**

- 5.1 Contractor shall indemnify, hold harmless and, at the City's option, pay for an attorney selected by the City, to defend the City and any of its elected officials, officers, agents, servants, and employees from and against any and all liability, suits, actions, damages, costs, losses, and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, arising out of any errors, omissions, misconduct or negligent acts, errors or omissions of the Contractor, its officials, agents, employees or subcontractors in the performance of the services of the Contractor under this Agreement, whether direct or indirect and from and

against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof.

- 5.2 Contractor shall indemnify, hold harmless and, at the City's option, pay for an attorney selected by the City, to defend the City and any of its elected officials, officers, agents, servants, and employees from and against any and all liability, suits, actions, damages, costs, losses, and expenses, including attorneys' fees, demands and claims sought by third parties related to any alleged breach of any non-competition of similar provisions.
- 5.3 Contractor shall indemnify the City and any of its elected officials, officers, agents, servants and employees, for all loss, damage, expense, or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement by Contractor of any patent, trademark, copyright, trade secret or other proprietary right relation to services furnished pursuant to this Agreement. Contractor will defend and/or settle at its own expense any action brought against the City and any of its elected officials, officers, agents, servants, and employees, to the extent that it is based on a claim that products or services furnished to the City by the Contractor pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service become unusable as a result of any such infringement or claim.
- 5.4 Contractor acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring and indemnity.
- 5.5 The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due Contractor under the Agreement may be retained by the City until all of the City's claims for indemnification pursuant to the Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by the City.

6. **Insurance**

In order to insure the indemnification obligation contained above, Contractor shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverages as set forth in the RFP, and made a part hereof, and on file in the City Clerk's office.

7. **Miscellaneous**

- 7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the City. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of the City and shall be delivered by the Contractor to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to Contractor shall be withheld until all documents are received as provided herein.
- 7.2 **Audit and Inspection Rights and Retention of Records.** The City shall have the right to audit the books, records, and accounts of the Contractor that are related to this Agreement. The Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Contractor shall preserve and make available, at reasonable times for examination and audit by the City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), as stated in Section 7.29 of this agreement. Such retention of such records and documents shall be at Contractor's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the City to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the City's disallowance and recovery of any payment upon such entry.

In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance.

In addition, Contractor shall provide a complete copy of all working papers to the City prior to final payment by the City, in accordance with the RFP.

- 7.3 **Policy of Non Discrimination.** Contractor shall not discriminate against any person in its operations, activities, or delivery of services under this Agreement.

Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

- 7.4 **Public Entity Crime Act.** Contractor represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 289.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities. In addition to the foregoing, Contractor further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

- 7.5 **Independent Contractor.** Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees or agents of City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of Contractor. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries.** Neither Contractor nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices.** Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

City Manager
City of Marathon
9805 Overseas Highway
Marathon, FL 33050

With a copy to:
City Attorney
9805 Overseas Highway
Marathon, FL 33050

CONTRACTOR:
Grubbs Emergency Services, LLC.
Gary Grubbs
Managing Member
13365 West Hillsborough Ave.
Tampa, FL 33635

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by Contractor, except with the prior written approval of the City Manager, which shall be in his or her sole and absolute discretion. In addition, Contractor shall not subcontract any portion of the work required by this Agreement, except with the prior written approval of the City Manager, which shall be in his or her sole and absolute discretion. A list of all such subcontractors shall be included in the Bid. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Bid, a list of

such subcontractors shall be provided to the City Manager, subject to his or her approval.

Contractor represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFP and to provide and perform such services to City's satisfaction for the agreed compensation.

Contractor shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

- 7.9 **Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other person from representing themselves in any action or in any administrative or legal proceeding.

In the event Contractor is permitted to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

- 7.10 **Contingency Fee.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon resulting from the award or making of this Agreement. For a breach or violation of this provision, City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the

Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

- 7.11 **Materiality and Waiver of Breach.** City and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of the Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.12 **Compliance with Laws.** Contractor shall comply with all federal, state and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement, including, but not limited to:
- a. **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).
 - b. **Copeland "Anti-Kickback" Act:** Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).
 - c. **Davis-Bacon Act:** Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - d. **Contract Work Hours and Safety Standards Act:** Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - e. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT:** The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Any violations thereof must and will be reported to FEMA and the Regional Office of the Environmental Protection Agency.

- (1) Clean Air Act:

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 and understands and agrees that the City will, in turn, report each violation as required to assure notification to 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 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

(2) Federal Water Pollution Control Act:

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 and understands and agrees that the City will, in turn, report each violation as required to assure notification to 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 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.13 **Severance.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Contractor elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

7.14 **Joint Preparation.** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

7.15 **Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or

provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

- 7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Monroe County, Florida. The parties expressly waive all rights to trial by jury for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. This Agreement is not subject to arbitration.
- 7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- 7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between Contractor and City, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreement or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.
- 7.19 **Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- 7.20 **Incorporation by Reference.** The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits A, B & C are incorporated hereto and made a part of this Agreement.
- 7.21 **Multiple Originals.** This Agreement may be fully executed in two (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.22 **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 7.23 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to

execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

- 7.24 **E-Verify.** The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. The City Shall request a confirmation from the Contractor that this section is implemented.
- 7.25 **Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.
- 7.26 **Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.
- 7.27 **DEBARMENT AND SUSPENSION:** The contractor is subject to the debarment and suspension regulations implementing Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension). A contract will not and cannot be made to parties listed in the SAM (System for Award Management) exclusions. SAM exclusions is the list maintained by the General Services Administration that contains the names of parties, debarred, suspended or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.

(1) The bidder/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).

(2) The bidder/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.

(3) This certification is a material representation of fact relied upon by City. 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 City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer 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 bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.28 **BYRD ANTI-LOBBYING AMENDMENTS** (31 U.S.C. 1352): Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. 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 an 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.

2. 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, an officer or

employee of Congress, or an employee of 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.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor GRUBBS EMERGENCY SERVICES, LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

7.29 PUBLIC RECORDS: Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (1) Keep and maintain public records required by the City to perform the service.
- (2) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow

the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.

(4) Upon completion of this Agreement, transfer, at no cost, to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon the completion of this agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 305-743-0033, cityofmarathon@ci.marathon.fl.us, OR BY MAIL AT 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050

7.30 SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS: The contractor agrees to ensure that it takes all necessary six (6) steps identified in 2 CFR 200.321 to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

IN WITNESS WHEREOF, City and Contractor have set their hands and seals, as of the day and year first above written.

ATTEST:

CITY OF MARATHON, FLORIDA

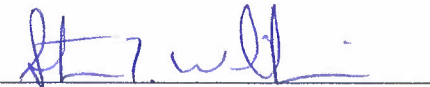


Diane Clavier
City Clerk



George Garrett
City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



Steve Williams, City Attorney

GRUBBS EMERGENCY SERVICES, LLC



Printed Name: Gary Grubbs
Title: ~~President~~ **MANAGER**

EXHIBIT A

SECTION 6 - SCOPE OF SERVICES

1. SCOPE OF CONTRACTED SERVICES

Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver disaster response services as requested by the City of Marathon including but not limited to the timely removal and lawful disposal of all eligible storm-generated debris.

These contracted services shall include all items listed below and provide for the cost effective and efficient removal and lawful collection and disposal of debris on all public streets, roads, and other rights-of-way, including any other locally-owned facility or site as may be directed by the City of Marathon, and in accordance with FEMA requirements. Contract services will only be performed when requested and as designated by the City of Marathon Manager, by approved Work Authorization issued in writing. Contractor shall load and haul the debris from within the legal boundaries of the City of Marathon to a site(s) specified by the City of Marathon as set out in Section 4.8 below.

The City of Marathon reserves the right to assign work to various contractors, at its sole discretion. The City of Marathon also reserves the right to approve all subcontractors hired by the contractor and/or to require the contractor to dismiss a subcontractor for cause, upon request. Upon issuance of the Notice To Proceed, the Contractor shall within five (5) days submit a list of all subcontractors to be used on the project. Any subcontractors to be used on the project after commencement shall be submitted to the city for approval prior to the said subcontractor performing any work.

1.1 Emergency Push/Road Clearance:

Contractor shall accomplish the cutting, tossing and/or pushing of debris, hanging limbs, or leaning trees off of transportation routes as identified by and directed by the City of Marathon. The emergency push will normally be completed within the first 70 hours following the activation of this contract, unless notified otherwise by the City of Marathon. Time and material rate shall be applicable. The contractor shall provide necessary equipment to the City as requested prior to the event and have them on standby and available immediately after the event. The City, at its sole discretion, may assign this work to another contractor and as such, is under no obligation to the contractor for this portion of the work.

1.2 Debris Removal from Public Right-of-Way (ROW):

1.2.1 As directed by the City of Marathon, Contractor shall load and haul all eligible debris to an approved and certified Temporary Debris Management Site (TDMS)

or other disposal destination, as specified by and provided by the City of Marathon. All collection and hauling will be consistent with Federal requirements applicable to the disaster event. The Contractor will ensure compliance with instructions from the City of Marathon regarding the collection, hauling and disposal of hazardous waste and/or other categories of debris.

1.2.2 The contractor shall remove all debris piles by type of material, and continue on the same street until all debris is pick-up for that particular pass. Contractor shall not "cherry pick" the piles for convenience. All effort shall be made to leave the area clean of debris.

1.3 Debris Clearance/Removal from Public Property:

As directed by the City of Marathon, Contractor shall clear eligible debris from public property, load and haul all debris to a designated temporary debris management site (TDMS) or other disposal destination designated by the City of Marathon. If necessary, the City of Marathon will confirm the FEMA eligibility of the debris to be removed.

1.4 Demolition of Structures and Construction Debris Removal:

As directed by the City of Marathon, Contractor shall demolish unsafe structures and remove debris that has been determined by the City of Marathon to be a threat to the health and safety of the public. Contractor will exercise due diligence in demolishing and/or removing debris from private property. The City of Marathon will direct actions to secure the Right of Entry (ROE) onto private property to allow demolition and removal. Contractor will ensure hazardous materials screening and utilities disconnection as appropriate. All applicable local, state and federal regulatory requirements regarding asbestos containing materials shall be adhered to unless waived by applicable regulatory authorities.

1.5 Private Property Waivers:

The City of Marathon will direct all actions to secure necessary permissions, waivers and ROE agreements from real property owners and/or Homeowner Associations (HOA) as required for the lawful removal of debris and/or demolition of structures from real properties. All such actions will be consistent with Federal requirements applicable to the disaster event.

1.6 Debris Separation/Reduction and Temporary Debris Management Site (TDMS) Management:

Contractor shall be solely responsible to operate and manage the TDMS to accept and process all event debris. All actions will be implemented by the Contractor

only with the prior approval of the City of Marathon. Actions by the Contractor will include, but are not limited to, the following:

- 1.6.1 Ensure that only debris authorized by the City of Marathon's Contract Administrator will be allowed into the TDMS sites.
- 1.6.2 Provide to the City of Marathon a video record of the pre- and post-use site conditions.
- 1.6.3 Conduct an onsite Phase I Environmental Audit, if required by the City of Marathon. Contractor shall submit list of engineering firms that shall be engaged by Contractor to perform such Audit.
- 1.6.4 Prior to any debris transported to the TDMS, the Contractor shall secure said property by fencing, cable, or any other acceptable means necessary to prevent any unauthorized or dumping at the sites.
- 1.6.5 Prior to use of the property, the contractor shall install silt fencing around the perimeter of the site. The silt fence shall be inspected and accepted by the City before any debris is transported to the site.
- 1.6.6 Prepare a plan of proposed site layout and review with the City of Marathon prior to its implementation. The plan shall include, but not be limited to, designated areas for the different debris types, internal access, fire protection, and sanitary facilities.
- 1.6.7 Prepare a plan for site security and traffic control for both on the site and adjacent roadways and review with the City of Marathon prior to its implementation.
- 1.6.8 Provide adequate fire prevention/fighting equipment, including water truck and hoses, on site throughout the operational period of the TDMS.
- 1.6.9 Build and/or maintain roads as necessary for TDMS operation.
- 1.6.10 Provide and/or construct and maintain stabilized roofed inspection towers sufficient for a minimum of three inspectors; Towers will be positioned at any entrance and any exit of the TDMS.
- 1.6.11 Comply with any applicable local, state, and federal environmental requirements governing debris sites, to include, but not limited to, litter control fencing, silt fencing, dust control, hazardous materials containment area, and/or water retention berms. It is the contractors responsibility to keep up to date version of all said regulations.
- 1.6.12 Confine hours of operation of the TDMS to those determined by the City of Marathon.
- 1.6.13 Stage and process all debris in accordance with instructions from the City of Marathon, and consistent with FEMA requirements.
- 1.6.14 Contractor shall be responsible to keep debris segregated at the TDMS. No additional payment shall be made to debris segregation as a result of mismanagement of the site by the contractor.
- 1.6.14 Process and reduce debris by methods that may include, but not be limited to, reduction by grinding, chipping, air curtain incineration when approved, or other alternate methods of reduction, such as compaction.

- 1.6.15 Prior to reduction and to the extent practical, segregate debris between vegetative debris, construction and demolition debris, white goods, and hazardous waste.
- 1.6.16 Develop and implement, with the approval of the City of Marathon, a procedure for management of the receipt of unauthorized and/or ineligible debris at the TDMS.
- 1.6.17 Provide the City of Marathon with proper and acceptable documentation (including destination, tickets, volume/weight) for final disposal of debris accepted at the TDMS.
- 1.6.18 Upon the closure of the TDMS, restore the TDMS to its pre-use condition, meeting all regulatory requirements for the site closure, inclusive of required soil testing; Survey the site to verify that it has been restored to pre-use elevation and condition.
- 1.6.19 As directed by the City of Marathon, sod, hydro-seed or sprig the TDMS property once all other site closure issues have been addressed and cleared by the appropriate environmental agency.
- 1.6.20 As directed by the City of Marathon conduct post use soil and water tests.
- 1.6.21 Provide a tent, chairs, and portable toilet for staff to use while monitoring and working at the site.
- 1.6.21 Any violations or corrective issues required by the City or any agency exerting jurisdiction over the TDMS shall be immediately corrected by the contractor. The contractor shall be responsible for any fines or actions required as a result of non-conformance in the performance of the management of the TDMS.

1.7 Designation and Management of Staging Areas:

City of Marathon shall provide list of staging areas to Contractor. Contractor shall identify appropriate staging areas for approval by City of Marathon that would accommodate activities such as truck/equipment certification, provision of temporary fueling or vehicle maintenance (as required), and other operational service functions related to debris removal efforts. Contractor shall provide temporary tent, sanitary and other appropriate conveniences necessary for the care and well-being of all Contractor and sub-contractor personnel. The City of Marathon will approve of the location, size, layout and services to be provided at any staging area established by the Contractor, who will insure that each area is managed in accord with all applicable regulatory requirements and in a manner to minimize disruption to the surrounding neighborhoods.

1.8 Management of Tree Debris:

Tree debris is herein defined as vegetation, stumps, hanging limbs, leaning trees, and similar materials resulting from trees damaged during the event. The City of Marathon shall direct the Contractor regarding removal, collection, hauling and disposal of eligible tree debris, which will adhere to the most current FEMA

Guidance Policy Disaster Specific Guidelines. Stumps within the public rights-of-way deemed by the City of Marathon to be public safety hazards will be removed and disposed of by the Contractor. The Contractor is responsible for collection, hauling and disposal of all tree debris on the cost basis of the cubic yard rate for regular vegetative debris.

1.9 Disaster Recovery Technical Assistance:

The Contractor will provide Disaster Recovery Technical Assistance to the City of Marathon to assist with guidance and consultation on all aspects of the recovery process. This assistance shall include documentation and management for the public assistance program, planning, training and exercise development, as well as attendance at the City of Marathon's Emergency Operations Center (EOC) during activations of the EOC for exercise and actual emergency events as requested by the City of Marathon Representative.

1.10 Post Event Support Equipment:

The Contract will supply, as may be requested by the City, with post event equipment including but not limited to mobile satellite communication gear, mobile high speed internet access, mobile radio communication gear, mobile fueling gear, mobile kitchen, mobile laundry facility.

1.11 Beach Cleaning:

In the event that the City's beaches have been damaged, the Contractor shall provide all necessary equipment, and manpower, as directed by the City, to remove debris, screen sand, and place the screened sand on the beach. All debris generated from the screening operation shall be removed from the beaches and paid as a unit cost for debris removal as stated in Table B of Attachment A

2. **PERFORMANCE OF SERVICES**

2.1 Description of Service:

The Contractor agrees to perform contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations, and permits. Only the highest quality workmanship will be acceptable. Services, equipment and workmanship not conforming to the intent of the Contract or meeting the approval of the City of Marathon may be rejected. Replacements and/or re-work, as required, will be accomplished on a timely basis at no additional cost to the City of Marathon.

2.2 BID FORM - Cost of Services:

The Contractor shall submit Attachment A providing a Bid on the Bid Form in these Bidding Documents. The Contractor shall bear all of its own operating costs and is responsible for all permit and license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish contracted services. Upon execution of the Contract, payments will be made based on a unit price basis as specified in the Sample Contract in the Bidding Documents.

Unknown and/or unforeseen events or conditions may require an additional line item to the costs given in Attachment "A" or "B", of the Bidding Documents. Any amendments, extensions or changes to the scope of contracted services are subject to full negotiations between the Contractor and the City of Marathon and approval by formal action as deemed necessary by the City of Marathon.

In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the most current version of the FEMA Schedule of Equipment Rates, to be applied at all times for implementation of the Contract.

3. **STANDARDS OF PERFORMANCE**

3.1 Contractor Representative and General Operations Plan:

The Contractor shall have a knowledgeable and responsible representative report to the City of Marathon and provide a copy of final Contractor's General Operations Plan within ten (10) days following the execution of the Contract. The City of Marathon will approve the General Operations Plan prior to its implementation within the City of Marathon. The Contractor's Representative shall have the authority to implement all actions required to begin the performance of contracted services as set forth in the Contract and the Contractor's General Operations Plan.

3.2 Mobilization:

When a notice to proceed in advance of an event has been received by the Contractor, he/she will make all necessary arrangements to mobilize a minimum of 50% of the required resources within 48 hours and 100% of the required resources within 96 hours to commence and conduct these contracted services. It shall be the City's discretion to require pre-event staging at a location designated by the City. The City of Marathon may take such other actions as necessary to address the failure of the Contractor to mobilize resources on the schedule required by the City of Marathon.

4. **GENERAL RESPONSIBILITIES**

4.1 Other Agreements:

The City of Marathon may be required to enter into agreements with Federal and/or State agencies for disaster relief. The Contractor shall be bound by the terms and conditions of such agreements, regardless of the additional burdens of compliance. City of Marathon will provide the Contractor with a copy of any applicable agreements.

4.2 The City of Marathon's Obligations:

The City of Marathon shall furnish all information and documents necessary for the commencement of contracted services, including a written Notice To Proceed.

4.3 Contractor's Conduct of Work:

The Contractor shall be responsible for planning and conducting all operations in a satisfactory and professional manner. All Contractor personnel and subcontractors shall demonstrate and maintain a courteous and responsible demeanor toward all persons. The City shall have the right to remove any of the Contractor's personnel or subcontractor, that at its sole discretion is deemed to violate this clause.

4.4 Supervision by Contractor:

The Contractor will supervise and/or direct all contracted services performed by its employees, agents and subcontractors. The Contractor is solely responsible for all means, methods, techniques, safety and other procedures. The Contractor will employ and maintain a qualified Contractor's Representative as project manager at the work site(s) who shall have full authority to act on behalf of the Contractor. All communications given to the Contractor's Representative by the City of Marathon shall be as binding as if given to the Contractor.

4.5 Self-sufficiency of Contractor and Subcontractors:

The Contractor shall ensure that its work force, including subcontractors, maintain self-sufficiency related to fuel, vehicle repair/maintenance, housing, sanitation food and related accommodations, in a manner that is consistent with local requirements and minimizing adverse effects on the community, and at no additional cost to the City.

4.6 Damages by Contractor:

The Contractor shall be responsible for conducting all operations, whether contemplated by the Contract or later requested as specialized services, in such a

manner as to cause the minimum damage possible to existing public, private and commercial property and/or infrastructure. The Contractor shall also be responsible for any damages resulting from its employees and subcontractors operations. The Contractor must report such damage to the City of Marathon in writing within 24 hours. Should any property be damaged as a result of the Contractor's operation, the City of Marathon may either bill the Contractor for the damages, withhold funds due to the Contractor, or the Contractor may also repair all damage to the satisfaction of the City of Marathon.

4.7 Contractor's Duty Regarding Other Contractor(s):

The Contractor acknowledges the presence of other contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work, and cooperate with any other entity as directed by the City.

4.8 Contractor's Ownership of Debris:

All debris, once collected by the Contractor, shall become the property of the Contractor or the City of Marathon may exercise ownership of flow control for removal and lawful disposal. The debris may consist of, but not be limited to, vegetation, construction and demolition debris, white goods and collected hazardous materials.

4.9 Contractor's Disposal of Debris:

Unless otherwise directed by the City of Marathon, the Contractor shall be responsible for determining and executing the method and manner for processing and/or lawful disposal of all eligible debris as approved by the City of Marathon. The locations of the TDMS shall be approved by the City of Marathon. Final disposal sites shall be provided to the City of Marathon in writing. Copies of receipts and disposal tickets shall be provided to the City of Marathon, or its monitoring contractor, when complete. Separate unit prices for delivery and disposal of debris to final disposal may be allowed by the City of Marathon. Upon request from the Contractor, other sites may be utilized as directed and/or approved by the City of Marathon. All sites shall be permitted and/or otherwise authorized by the appropriate regulatory agency.

5. **GENERAL TERMS AND CONDITIONS**

5.1 Multiple, Scheduled Passes:

The Contractor shall make scheduled passes and/or unscheduled passes of each area impacted by the event, at the direction of the City of Marathon. The City of Marathon shall direct the interval timing of all passes. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the City of Marathon. The Contractor will document the completion of all passes based on the direction from the City of Marathon and will provide this documentation to the City of Marathon on the frequency requested by the City of Marathon.

5.2 Clean as you go Policy:

The Contractor shall provide a “clean as you go” policy and supervise and enforce such policy during debris management operations.

5.3 Operation of Equipment:

The Contractor shall operate all trucks, trailers and all other equipment in compliance with any/all applicable federal, state and local rules and regulations. All equipment shall be in good working condition. All loading equipment shall be operated from the road, street, or ROW using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed outside of the public ROW unless otherwise directed by the City of Marathon. Should operation of equipment be required outside of the public ROW, the Contractor will ensure that a ROE agreement has been obtained prior to property entry.

5.4 Security of Debris During Hauling:

The Contractor shall be responsible for the security of debris on/in each vehicle or piece of equipment utilized to haul debris. Prior to leaving the loading sites, Contractor shall ensure that each load is secure and trimmed so that to the extent practical no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted and secured during transport in accordance with FOOT guidelines. As required, Contractor will survey the primary routes used by Contractor for debris hauling as soon as possible after the transport and will recover fallen or blown debris from the roadway(s).

5.5 Traffic Control:

Contractor shall mitigate impact on local traffic conditions to the greatest extent possible. Contractor is responsible for establishing and maintaining appropriate traffic control in accordance with the most current edition of the US Department of Transportation Manual or Uniform Traffic Control Devices (MUTCD). Contractor shall provide sufficient signage, flagging and barricading to ensure the

safety of vehicular and pedestrian traffic at all debris removal, collection, reduction and/or disposal sites.

5.6 Work Days/Hours:

Work days and/or work hours shall be as directed by the City of Marathon following consultation and notification to Contractor. Working hours and work on holidays shall be at the discretion of the City of Marathon.

5.7 Hazardous and Industrial Wastes:

Upon the pre-authorization of the City of Marathon, the Contractor shall set aside and reasonably protect all hazardous or industrial material encountered during debris removal operations for collection and disposal. Prior to such actions, the Contractor will prepare a Hazardous and Industrial Materials Cleanup and Disposal Plan, and this plan will be in accordance with all local, state and Federal requirements and will be approved by the City of Marathon. In accord with this plan, the Contractor shall use the subcontracting services of a firm specializing in the management and disposal of such materials and waste, if and when directed to do so by the City of Marathon.

5.8 Work Safety:

Contractor shall provide and enforce a safe work environment as prescribed in the Occupational Safety and Health Act of 1970, as amended. Contractor will provide such safety equipment, training and supervision as may be required by the City of Marathon and/or other governmental regulations. Contractor shall ensure that its subcontracts contain an equivalent safety provision.

5.9 Inspection of Contractor Operations:

All debris shall be subject to inspection by the City of Marathon, or it's designee, and other public authorities to ensure compliance with the Contract, applicable federal, state and local laws, and in accordance with generally accepted standards of emergency management professionals. The City of Marathon will, at all times, have access to all work sites and disposal areas. In addition, authorized representatives and agents of the government shall be permitted to inspect all work, materials, invoices, and other relevant records and documentation.

5.10 Corrective Actions Required of Contractor

When instructed by the City of Marathon's Representative, the Contractor will immediately implement corrective actions to address health and safety issues and/or any other actions inconsistent with any of the terms of the Contract, as determined by the City of Marathon in its sole discretion and notify the City of Marathon within 24 hours.

5.11 Ineligible Work:

The Contractor will not be paid for the removal, transportation, storage, reduction and/or disposal of any material when not previously instructed by the City of Marathon that such actions are eligible for state and/or Federal reimbursement.

5.11.1 Eligibility Inspections:

A representative for the City of Marathon shall inspect each load, or shall inspect at some other frequency of the City of Marathon's direction, to verify that the contents are in accordance with the accepted definition of eligible debris.

5.11.2 Eligibility Determinations:

If any load is determined to contain material that does not conform to the definition of eligible debris, the load will be ordered to be deposited at another approved and certified receiving facility. No payment will be allowed for that load and the Contractor will not invoice the City of Marathon for such loads. The City of Marathon, through its authorized representative, will be the sole judge as to whether the material conforms to the definition of eligible debris.

5.12 Other Agencies:

The term "government" as used in the Contract refers to those governmental agencies which may have a regulatory or funding interest in the Contract.

5.13 TERMINATION FOR CONVENIENCE AND CAUSE: This Contract may be terminated by the CITY upon thirty (30) days advance written notice to the CONTRACTOR at the primary business address as designated on the signature page herein; however, if any work or service hereunder is in progress but not completed as of the date of termination, then this Contract may be extended upon written approval from the CITY until said work or services are completed and accepted by the CITY. In the event this Contract is terminated or cancelled upon the request and for the convenience of the CITY with such thirty (30) day advance written notice, the CITY shall reimburse the CONTRACTOR for actual work satisfactorily completed. In the event of a material breach, default, or negligence on the part of the CONTRACTOR, or any other articulable cause, the CITY reserves the right to terminate the Contract by issuing a written notice to the CONTRACTOR which shall take effect immediately or at a time directed by the CITY. At the CITY's discretion, a cure period may or may not be afforded CONTRACTOR. Any termination costs, including demobilization of equipment and personnel, shall be incurred and paid by the CONTRACTOR. In such case, the CONTRACTOR shall not be entitled to receive further payment for services rendered from the effective date of the Notice of Termination.

- 5.14 **MINIMUM LEVEL OF SERVICE:** The Contractor shall provide the City multiple estimated minimum levels of service commitments at the time of a “declared emergency” by the City. These multiple commitments shall include, but shall not be limited to, mobilization schedules, estimated number of calendar days for completion and resource designations. The multiple commitments shall also be commensurate with the required minimum level of service for varying degrees of severity of the event. The determination as to which minimum level of service commitment is implemented shall be the responsibility of the City. This shall be based on the actual severity and impact of the event.
- 5.15 **PERFORMANCE REMEDY NOTIFICATION:** Failure of the Contractor to meet the minimum level of service commitments, once debris management services commence, shall result in the issuance of a Performance Remedy Notification from the City to the Contractor. Once this date and time stamped notification is issued, the Contractor shall have a twenty-four (24) hour period in which to respond (in writing) and take corrective action. Failure to do so may result in the assessment of liquidated damages against the Contractor or its Surety.
- 5.16 **LIQUIDATED DAMAGES:** Parties agree that damages are difficult to determine but the following liquidated damages are agreed to be a reasonable cost for any delays: If the Contractor shall neglect, fail or refuse to START the Work within the specified time in this agreement, or any proper extension thereof granted by the City, then the Contractor hereby agrees, as part consideration for awarding the Agreement, that the City reserves the right to assess damages in the event that the Contractor response is not timely in accordance with the terms of this Agreement and the Contractor agrees to pay the City said sum for each and every calendar day that the Contractor shall be in default after the time stipulated in the Agreement for STARTING the Work. The Contractor and City acknowledge and agree that said sum is not a penalty but liquidated damages for breach of contract. The City and Contractor agree that the damages that will be incurred by the City as a result of Contractor's delay in meeting a START date are of a kind difficult to accurately estimate, and the Contractor further agrees that the said sum amount is reasonable of the damages that will actually be incurred by the City in the event of any such delay and not a penalty.
- 5:17 **REMEDIES:** Any Agreement or Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the agreement shall be in a State Court of competent jurisdiction located in Monroe County. With the exception of the choice of law and venue provisions contained herein, no remedy conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

5:18 PUBLIC RECORDS: Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (5) Keep and maintain public records required by the City to perform the service.
- (6) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (7) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.
- (8) Upon completion of this Agreement, transfer, at no cost, to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon the completion of this agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 305-743-0033, cityofmarathon@ci.marathon.fl.us, OR BY MAIL AT 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050

5:19 ACCESS TO RECORDS: The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide the City, 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.
- (2) 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.
- (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract

6. **REPORTS, CERTIFICATIONS AND DOCUMENTATION**

6.1 Reports:

The Contractor shall submit periodic, written reports in a format required by the City of Marathon documenting the progress of debris removal and disposal. These reports may include, but are not limited to:

6.1.1 Daily Reports:

Daily reports may detail the locations where passes for debris removal were conducted, the quantity of debris (by type) removed and disposed of, the total number of personnel crews engaged in debris management operations, and the number of grinders, chippers and mulching machines in operation. Contractor will also report damages to private property caused by the debris operation or damage claims made by citizens and such other information as may be required to completely describe the daily conduct of Contractor's operations within 24 hours.

6.1.2 Weekly Summaries:

A summary of all information contained in the daily reports as described in Section 6.1.1, within two days of the close of the week. At the request of the City of Marathon, the data making up the weekly summaries shall also be submitted in electronic format, utilizing Microsoft Excel or Access. The submitted electronic weekly data will include: Collection contractor or sub-contractor, load ticket number, load date, load location, truck yardage, percent full, calculated yardage (or weight if applicable) field monitor name I number, TDMS location, tower monitor I name, debris materials categorization, and location of collection, e.g., ROW, FHWA, Canal, etc.

6.1.3 Report Delivery:

The scheduling, point of delivery and receiving personnel for the debris operations report will be directed by the City of Marathon, in consultation with the Contractor.

6.1.4 Data Reconciliation

Reconciliation of data will be accomplished weekly between the Contractor and the City of Marathon's Representative. All discrepancies will be resolved within 5 days.

6.15 Data Storage/Access

Throughout the debris removal operations, Contractor shall maintain an ongoing updated database to be made available to the City within 24 hours upon request,

that stores data and true document images, separated by incident, of the following: equipment certification, load tickets, tipping tickets and invoices. These data bases will remain available for five years after the project close-out

3..i Public Works & Engineering:

1. Prior to any construction activities on the site, silt fence shall be properly installed along the perimeter of the property.

2. All disturbed areas on site shall be stabilized with gravel or sod prior to final acceptance of the project.

3. Contractor shall provide a soil tracking method for construction traffic to eliminate dirt, silt and debris from entering the public R/W.

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6.1.5 Final Project Closeout:

Upon final inspection and/or closeout of the project by the City of Marathon, Contractor shall prepare and submit a detailed description of all debris management activities in an electronic spreadsheet, to include, but not limited to the total volume, by type of debris hauled, reduced and/or disposed of, final disposal locations and amounts of the debris managed by the Contractor, plus the total cost of the project invoiced to the City of Marathon. The Contractor shall provide, upon request of the City of Marathon and/or no later than project closeout, a release of liens demonstrating that all subcontractors to the Contractor have been fully paid. The Contract will provide any other additional information as may be necessary to adequately document the conduct of the debris management operations for the City of Marathon and/or government. Final project reconciliation must be approved by the City of Marathon.

6.2 Certifications

The Contractor will adhere to the process for certification of personnel and vehicles established by the Federal Emergency Management Agency, to include the following:

6.2.1 Certification of Vehicles and Load Capacity

- a. Contractor shall ensure that all equipment is certified in accordance with most current federal procedures.
- b. After a disaster, the City of Marathon, or its designated representative, will begin the equipment certification at a pre-designated site, or at staging areas established by the City of Marathon.
- c. All Contractor and subcontractor trucks shall have valid registrations, insurance and meet basic operational criteria: tailgates or equivalent containment devices, tarps, etc., as well as

all applicable motor vehicle safety requirements. Drivers shall possess valid licenses.

- d. Truck body dimensions shall be measured, and information recorded on certification forms with calculated capacity noted. Each truck will receive two placards, which shall be affixed on opposite sides of the truck body. The placards will be at least 42" x 24" with 6" lettering. The truck driver will be provided up to two (2) copies of a vehicle certification sheet by the Contractor and also provide copies for sub-contractor's records.
- e. Contractor may be required to provide a scale capable of weighing large trucks and equipment.

6.2.2 Certification of Personnel

The Contractor will certify to the City of Marathon that all Contractor and subcontractor personnel have received required and adequate training in relevant emergency response, disaster recovery, and debris management operations. Upon request of the City of Marathon, the Contractor will provide documentation certifying the adequacy of the training, experience and capabilities of all Contractor and subcontractor personnel, to include but not be limited to the following:

- 6.2.2.1 Senior management personnel of the Contractor assigned to implement work authorizations pursuant to the Contract will participate, upon request, in training and briefing sessions held by representatives of Monroe County and/or the City of Marathon.
- 6.2.2.2 Senior, supervisory personnel of the Contractor and all subcontractors thereto will have received training in debris management, the operational concepts established by the Monroe County Countywide Debris Management Plan, and the implementation of the National Incident Management System.
- 6.2.2.3 Personnel assigned by the Contractor as responsible for data management, invoicing and other documentation duties will be trained in the data management concepts and approaches to be used by the City of Marathon.
- 6.2.2.4 Vehicle and equipment operators will be fully licensed and certified, as required by applicable local, State and Federal statutes and regulations.
- 6.2.2.5 Upon their deployment for field operations, all Contractor and subcontractor personnel will be briefed or trained appropriately in their duties, responsibilities, and the procedures to be utilized throughout the debris management process, including safety

procedures, load ticket management procedures, and accident reporting procedures

6.3 Utilization of a Standardized “load ticket”:

The Contractor and all subcontractors will utilize a standardized “load ticket” for documenting each load of debris from its origin to the TDMS and/or final disposal location. The “load ticket” utilized will be identical to the sample provided by the Contractor in Attachment B.

6.4 Additional Supporting Documentation:

Contractor shall submit sufficient reports and/or documentation for debris loading, hauling, disposal, and load capacity measurements, any other services provided by Contractor as may be required by the City of Marathon and/or other governmental entity to support requests for debris project reimbursement from external funding sources.

6.5 Report Maintenance:

The Contractor will be subject to audit by federal, state and local agencies pursuant to the Contract. The Contractor will maintain all reports, records, debris reporting tickets and Contract correspondence for a period of not less than three (3) years.

7. DESCRIPTIONS

7.0 Description of Unit Price Bid items:

Table A - Unit Prices: The Contractor will provide all services and expenses necessary for the emergency push, and additional service as requested requiring manpower or equipment as requested by the City with the exception of debris hauling, TDMS management, debris reduction, and final haul-out for a fixed unit price as a cost per hour. The City reserves the right to contract this portion of the work to other contractors at the sole discretion of the City.

Table B - The Contractor will provide all services and expenses necessary for the, debris pickup and hauling, white goods collection and processing, processing of debris at the TDMS, debris reduction, and final disposal for a fixed unit price as a cost per cubic yard, for the debris types noted below, but excluding debris designated as hazardous wastes. This cost is inclusive of all related expenses including but not limited to, contract administration, technical assistance to the jurisdiction, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary, and any other cost associated with the operation for implementation of debris management operations by the Contractor as defined in the Contract.

1. Leaners, hangers, and stumps (\$\$/item)
2. Vegetative debris (\$\$/cubic yard)
3. Construction & Demolition (\$\$/cubic yard)
4. White Goods (\$\$/Item)
5. Haul-out to final destination (\$\$/cubic yard)
6. All other inclusive items as noted in Table B

7.1 Cleaning and Restoration of Beaches:

The Contractor will remove and dispose of debris accumulated on the beaches located within the City of Marathon by written request, and will collect, screen for debris removal, and re-deposit sand on the beach that has accumulated in adjacent areas up to 2,000 feet from the original land edge of the beach. Locations will be designated by the City of Marathon's authorized representative. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.2 Debris Removal and Restoration of Canals:

The Contractor will remove debris resulting from the event that impedes the drainage and navigation of canals and adjacent banks, as directed by the City of Marathon. Debris to be removed will be vegetative and/or construction and demolition debris affecting the canals, but excludes removal of damaged and/or

abandoned boats. The Contractor will also haul, process and dispose of the collected debris at the rate established in Attachment A.

7.2.1 The Contractor will restore, re-grade, and/or reseed the canal banks and slopes, as directed by the City of Marathon. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.3 Motor Vehicles:

The Contractor will remove motor vehicles damaged by the disaster event and/or abandoned by the owner due to the circumstances of the event. The City of Marathon will identify the area(s) from which motor vehicles are to be removed. Motor vehicles will be processed by or for the Contractor in a manner that complies with all requirements for removal and processing of hazardous materials, e.g., gasoline, oils and other fluids. The Contractor will also ensure the proper final disposal of the removed vehicle. The Contractor will be reimbursed at a the rate, as established in Attachment A inclusive of all towing, processing and disposal costs.

7.4 Boats:

Boats severely damaged by the disaster event, and abandoned in or on the canals, marinas, and beaches of the City of Marathon will be collected by the Contractor, processed for removal and disposal of hazardous materials in accord with applicable regulations, demolished and transported to a suitable location for final disposal. The City of Marathon will determine the vessels to be removed, will establish that they have been legally abandoned by their owners, and will take other necessary steps as required by law before directing the Contractor to remove and dispose of the vessel. The Contractor is otherwise responsible for compliance with all regulations and requirements applicable to the removal and disposal process. The Contractor will be reimbursed at the rate for this service as established in Attachment A..

7.5 Hazardous Waste and Contaminated Debris Management:

The Contractor will identify, separate, collect, transport and dispose of disaster-generated debris determined to be hazardous and/or contaminated, thereby requiring that it be separately managed from other debris. The Contractor will provide trained, experienced and equipped personnel to identify hazardous waste and contaminated debris at its point of origin, as well as to direct the Contractor personnel in the safe and proper handling and disposal of the material. All hazardous waste and contaminated debris will be collected, transported and disposed of by the Contractor as required by local, state and Federal regulations. The Contractor will be reimbursed at the rate for this service as established in Attachment A

7.6 Fire Suppression Support:

In the event of water system failure in the City of Marathon, the Contractor will provide filled water trucks of a minimum capacity of 1500 gallons, and equipped with outlet valves compatible with fire hose connections meeting national standards of the National Fire Protection Association, or as otherwise specified by the City of Marathon. The City of Marathon will direct the Contractor regarding the location(s) for the truck(s) to be positioned, and the City of Marathon will provide a fully qualified and licensed driver. If the initial water supply is used, the City of Marathon will be responsible for refilling the truck. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.7 Emergency Potable Water:

The Contractor will provide the City of Marathon with whole pallets of individually bottled water drinking water. The City of Marathon will instruct the Contractor as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The Contractor will be reimbursed at a fixed rate for this service.

7.8 Emergency Delivery of Ice:

The Contractor will provide the City of Marathon with whole pallets of cubed ice made from potable water in individually packaged sacks of between 5 and 10 pounds. The City of Marathon will instruct the Contractor as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.9 Temporary Bathrooms, Showers, Kitchens and Feeding Stations:

The Contractor will provide the City of Marathon with “comfort stations,” e.g., modular units to provide for the comfort and support of disaster victims within or near impacted neighborhoods. The modular units will include tents, portable toilets, hand basins, shower units, a mobile kitchen, chairs and tables for food service, and all necessary personnel, food, equipment and supplies to operate the units for extended periods. Each comfort station must include equipment compliant with the Americans with Disabilities Act. The unit must be capable of serving three meals per day. The City of Marathon will provide law enforcement and emergency medical services staff to compliment the work force provided by the Contractor. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.10 Temporary Satellite Communications:

The Contractor will provide satellite communications units capable of voice, text messaging, data transfer and Internet access for use by City of Marathon personnel in the event of failure of other communications systems. The units will be rented/leased to the City of Marathon and will be fully equipped, including AC/DC adapters (including automotive battery chargers), instructions and carrying cases. The units will be fully operational upon delivery to the City of Marathon, without further action by the City of Marathon. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.11 Emergency Power Generation:

The Contractor will provide mobile electric power generation units for facilities and locations located within the City of Marathon. The City of Marathon will define the size and fuel type of the mobile units, which will be leased to the City of Marathon. The City of Marathon will require up to ((specify number of separate units)) of ((specify 120 and/or 240 volt)) units, ranging in capacity from ((specify range of KW needed)), and the Contractor will deliver the units to the facilities or locations designated by the City of Marathon, and ensure connection of the unit to the existing electrical wiring by a licensed electrician. The Contractor will also ensure the unit is fueled, tested, and demonstrated to be operational prior to departure from the location. The Contractor will also provide fuel for the duration of the units use by the City of Marathon, and will have readily available technical support and repair or replacement services. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.12 Intentionally Left Blank

7.13 Sewer, Culvert and Catch Basin Cleaning:

The Contractor will provide all personnel, vehicles, equipment and supplies to clean disaster-related debris, including sand and mud, from storm sewers, culverts, catch basins and draining canals. The City of Marathon will designate the storm water systems to be cleaned. This service will be provided on a per structure basis at the rate as established in Attachment A.

7.13.1 The disposal fee shall also be provided by the ton and Contractor should identify potential locations for disposal.

7.14 Decontamination of Buildings and Facilities:

The Contractor will provide for chemical and/or biological decontamination of buildings, facilities or other structures as directed by the City of Marathon. The Contractor is responsible for providing experienced, trained and equipped personnel, for all equipment and supplies, and for final disposal of all

contaminated materials removed from the structure. All operations by the Contractor must be in full compliance with all health and safety standards, as well as environmental protection requirements applicable to the decontamination and disposal process. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.15 Mold Remediation:

The Contractor will provide all personnel, equipment, supplies and services necessary for the planning of mold remediation services, removal and disposal of mold contaminated materials, and other mold remediation measures necessary for affected public buildings belonging to the City of Marathon. The Contractor will comply with all Federal guidelines on mold remediation, and ensure compliance with all applicable health, safety and environmental protection standards. The City of Marathon will designate which buildings or other structures are to be remediated, will approve the Contractor's mold remediation plan, and will designate the disposal facility to be utilized for mold-contaminated materials removed by the Contractor. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

EXHIBIT B
TABLE A - Time and Materials – First Push

Heavy Equipment	Size or Type	U/M	Quantities for Evaluation Only	Unit/Price
			<i>Operators Included</i>	
Skid Steer Loader	Bobcat S630 *	Hour	20 hr	\$25.00
Backhoe	Cat 416 *	Hour	20 hr	\$30.00
Wheel Loaders	Cat 950 *	Hour	20 hr	\$55.00
Wheel Loaders	Cat 966 *	Hour	20 hr	\$60.00
Wheel Loaders	Cat 980 *	Hour	20 hr	\$70.00
Tracked Loader	Cat 955 *	Hour	20 hr	\$65.00
Towed Loader w/Tractor	Prentice 210 *	Hour	20 hr	\$65.00
Self Loading Knuckle boom Truck	23-35 CY Body	Hour	20 hr	\$75.00
Self Loading Knuckle boom Truck	35-45 CY Body	Hour	20 hr	\$80.00
Dozer	Cat D4 *	Hour	20 hr	\$50.00
Dozer	Cat D5 *	Hour	20 hr	\$60.00
Dozer	Cat D6 *	Hour	20 hr	\$65.00
Dozer	Cat D7 *	Hour	20 hr	\$70.00
Dozer	Cat D8 *	Hour	20 hr	\$90.00
Excavators	Cat 320 *	Hour	20 hr	\$75.00
Excavators	Cat 325 *	Hour	20 hr	\$80.00
Excavators	Cat 330 *	Hour	20 hr	\$85.00
Tractor w/Box Blade	80 Hp	Hour	20 hr	\$45.00
Motor Grader	Cat 120G *	Hour	20 hr	\$65.00
Crane	30 Ton	Hour	20 hr	\$90.00
Bucket Truck	Up to 50' reach	Hour	20 hr	\$70.00
Bucket Truck	50' to 75' reach	Hour	20 hr	\$75.00
Mechanized Boom	Street Sweeper	Hour	20 hr	\$40.00
Water Truck	2000 Gallon	Hour	20 hr	\$50.00
Stump Grinder	Vermeer 252 *	Hour	20 hr	\$75.00
Chipper w/2 man crew	Morbark Storm *	Hour	20 hr	\$50.00
12-Foot Tub Grinder	Vermeer 1200 *	Hour	20 hr	\$500.00
13-Foot Tub Grinder	Vermeer 1300 *	Hour	20 hr	\$550.00
14-Foot Tub Grinder	Diamond Z 1462 *	Hour	20 hr	\$600.00
Equipment Transport w/Tractor	50 Ton	Hour	20 hr	\$75.00
Truck Mounted Winch	Tow Truck	Hour	20 hr	\$35.00

Haul Vehicles	Size or Type	U/M	Unit Price
Dump Truck	10 to 15 CY	Hour	\$45.00
Dump Truck	16 to 20 CY	Hour	\$60.00
Trailer Dump w/Tractor	30 to 40 CY	Hour	\$65.00
Trailer Dump w/Tractor	41 to 50 CY	Hour	\$70.00
Trailer Dump w/Tractor	51 to 60 CY	Hour	\$75.00
Trailer Dump w/Tractor	61 to 70 CY	Hour	\$90.00

Transportation Vehicles	Size or Type	U/M	Unit Price
Pickup Truck	1/2 Ton	Day	\$40.00
Pickup Truck	3/4Ton	Day	\$45.00
Pickup Truck	1Ton	Day	\$50.00
Box Truck	3/4 Ton	Day	\$35.00
Utility Van	3/4 Ton	Day	\$35.00
Passenger Van	9 Passenger	Day	\$35.00
Passenger Car	Full Size	Day	\$35.00

Personnel	Size or Type	U/M	Unit Price
Superintendent w/Pickup Truck	Individual	Hour	\$50.00
Supervisor w/Pickup Truck	Individual	Hour	\$55.00
Safety or QC Manager w/Pickup Truck	Individual	Hour	\$55.00
Mechanic w/Truck and Tools	Individual	Hour	\$50.00
Climber w/Gear	Individual	Hour	\$25.00
Operator w/Chainsaw	Individual	Hour	\$25.00
Laborer w/Tools	Individual	Hour	\$25.00
Traffic Control Personnel	Individual	Hour	\$25.00
Ticket Writers	Individual	Hour	\$30.00
Clerical	Individual	Hour	\$35.00
Administrative Assistant	Individual	Hour	\$40.00

* Or Comparable Equal

TABLE B - DEBRIS COLLECTION AND REDUCTION SERVICES

The Contractor will provide all services and expenses necessary for debris pickup and hauling, processing of debris at the TDMS, and final disposal for a fixed unit price as identified below. This cost is inclusive of all related expenses including contract administration, technical assistance to the City of Marathon, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary for implementation of disaster response services and operations by the Contractor as defined in the Contract.

DESCRIPTION OF SERVICES	UNIT OF MEASURE	Unit Price
Debris Removal		
Vegetative debris – Collection (including Seaweed)	Cu. Yd.	\$11.50
Construction and Demolition (excluding white goods)	Cu. Yd.	\$11.50
White Goods Collection	Each	\$25.00
White Goods Refrigerant removal	Each	\$20.00
White Goods Disposal	Each	\$4.00
Household Waste/Spoils	Lbs	\$10.00
E Waste	Each	\$5.00
DSM Site Management Processing and Loading	Cu. Yd.	\$1.00
Sand Screening and Placement	Cu. Yd.	\$10.00
Hazardous Waste/Contaminated Debris Management, collection and Disposal	Lbs	\$2.00
Reduction – Vegetative		
Grinding/Chipping	Cu. Yd.	\$5.00
Burning	Cu. Yd.	\$1.00
Reduction - C & D	Cu. Yd.	\$1.00
Haul Vegetative to Landfill < 200 miles	Cu. Yd.	\$18.00
Haul Vegetative to Landfill > 200 miles	Cu. Yd.	\$18.00
Haul Vegetative to Local Burner	Cu. Yd.	\$6.00
Haul C & D to City designated landfill	Cu. Yd.	\$18.00

Tree Debris Removal

Hangers	Per Tree	\$10.00
Leaners		\$10.00
13" to 24"	Per Tree	\$12.00
25" to 48"	Per Tree	\$35.00
49" to 72"	Per Tree	\$40.00
> 72"	Per Tree	\$45.00
Stumps		
25" to 48"	Per Stump	\$35.00
49" to 72"	Per Stump	\$40.00
> 72"	Per Stump	\$50.00
Stump Backfill	Per Stump	\$10.00
Demolition of Structures	Sq. Ft.	\$2.00
Resulting Structure Demolition debris removal	Cu. Yd.	\$12.00
Video Record of pre-and-post-TDMS site	Each	\$100.00
Phase I Environmental Audit	Each	\$1,000.00
TDMS site grading	Sq. Yd.	\$1.00
Topsoil for TDMS site	Cu. Yd.	\$10.00
TDMS Sodding	Sq Yd	\$15.00
TDMS Seeding	Sq Yd	\$1.50
Re-Deploy Sand on Beaches	Cu. Yd.	\$10.00
Debris removal from canals	CY YD.	\$45.00
Disposal of debris from canals	Cu. Yd.	\$20.00
Removal and Disposal of Vessel 0'-20'	EA	\$500.00
Removal and Disposal of Vessel 20' 30'	EA	\$1,000.00
Removal and Disposal of Vessel 30'45'	EA	\$1,500.00
Removal and Disposal of Vessel Over 45'	EA	\$3,500.00
Motor Vehicles Removal and disposal	EA	\$100.00
Haul out Reduced Marine Debris	Cu Yd	\$18.00
Restoration of Canal banks and Slopes	Sq Ft	\$1.50
Sodding of Canal Banks & Slopes	Sq Yd	\$1.00
Fill for Canal Restoration	Cu Yd	\$5.00
Emergency power generator		
>25KW	Each Unit/wk	\$1,000.00
>50KW	Each Unit/wk	\$1,100.00
>100KW	Each Unit/wk	\$1,200.00
>250KW	Each Unit/Wk	\$1,500.00
Portable Sanitary Facilities	EA/Wk/wk	\$2,000.00

Ice	Lb		\$1.00
Potable Water	Gal		\$1.00
Temp Satellite Com.	Wkly		\$1,000.00
Temp Showers	EA/Wk		\$1,000.00
Sewer, culvert cleaning	LF		\$1.00
Sewer Catch Basin Cleaning	Each	Catch	\$50.00
	Basin		
Sewer, culvert or catch basin material	Cu. Yd.		\$15.00
Disposal Fee			
Decontamination of buildings and facilities	Sq. Ft.		\$2.00
Fire Suppression Trailers	EA		\$500.00
Mold Remediation	Sq Ft		\$2.00

**AGREEMENT BETWEEN
THE CITY OF MARATHON
D&J ENTERPRISES, INC.
FOR DISASTER RECOVERY SERVICES**

THIS AGREEMENT is made as of this 11th day of May, by and between **D&J ENTERPRISES, INC.** (hereinafter the "Contractor"), and the **CITY OF MARATHON, FLORIDA**, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, the City issued a Request for Proposals for Disaster Recovery Services; and

WHEREAS, proposals were evaluated and ranked; and

WHEREAS, on May 11, 2021 the City Council approved the ranking of proposals for Disaster Recovery Services and authorized the City to execute an agreement with D&J ENTERPRISES, INC.; and

WHEREAS, the City and the Contractor desire to enter into this Agreement whereby the duties and obligation each to the other are set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the City agree as follows.

1. Scope of Services

- 1.1 The Contractor must meet the requirements and perform the services identified in the Request for Proposal Term Contract for Disaster Response Services published on March 30, 2021, (the "RFP"), and made a part hereof, and on file in the City Clerk's office, The Scope of Work listed in Exhibit A, and the Contractor's Proposal, (the "Proposal") attached hereto and made a part hereof, as Exhibit "B".
- 1.2 Contractor agrees and acknowledges that Contractor is prohibited from exempting provisions of the RFP, Proposal, or in this Agreement in any of Contractor's services pursuant to the Agreement.

2. Term

- 2.1 This Agreement shall begin on the date it is fully executed by both parties (the "Effective Date") and shall extend for Three (3) years from the date of execution (the "Term").

- 2.2 Execution of this contract does not guarantee the City will assign any work to the contractor. Any work assigned to the Contractor shall be at the City's own discretion. The city may assign limited scope of work and responsibility to the Contractor, and may choose to have more than one contractor perform services as determined to be in the best interest of the City.
- 2.3 After the initial term, the City shall have the option to renew for an additional term of three (3) years, and upon completion of that period, the City shall again have the option to renew for an additional term of three (3) years. The parties hereto may extend this Agreement by mutual consent, in writing, prior to the expiration of the current term. This provision in no way limits either party's right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 4 of the Agreement.
- 2.4 Contractor shall complete all services directed under this Agreement as soon as feasibly possible, and in the time necessary to accomplish the services, with the knowledge that time is of the essence. The scope and nature of the services to be performed will be directed by the City once the extent of damage has been determined. The City may impose liquidated damages of \$100.00 per day for breach of this paragraph. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City as a consequence of such delay, and both parties desiring to obviate any questions or dispute concerning the amount of said damages and the cost and effect of the failure of the Contractor to complete the services on time.

3. **Compensation**

- 3.1 The amount of compensation payable by the City to Contractor shall be based upon the rates and fees schedules as set forth in Exhibit "C", attached hereto and made a part hereof, which amount shall be accepted by Contractor as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by Contractor that these amounts are the maximum payable and constitute a limitation upon City's obligation to compensate Contractor for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon Contractor's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services as defined in Section 4 of the Proposal.
- 3.2 Contractor may submit an invoice for compensation, developed and agreed upon by the City Manager and Contractor, no more often than on a monthly basis, but only after the services for which the invoices are

submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of rates and fees with accrual of the total and credits for portions paid previously, and shall allocate the billing costs to the appropriate fund or combination of funds. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.

- 3.3 The City shall pay Contractor in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager for failure of Contractor to comply with a term, condition, or requirement of this Agreement.
- 3.4 Notwithstanding any provision of this Agreement to the contrary, the City Manager may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work of Contractor, which has not been remedied or resolved in a manner satisfactory to the City Manager. The amount withheld shall not be subject to payment of interest by the City.
- 3.5 Contractor agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which Contractor receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by the City.
- 3.6 If it should become necessary for the City to request the Contractor to render any additional services to either supplement the services described in the RFP or to perform additional work, such additional work shall be performed only as authorized by the City Manager or designee. Any such additional work agreed to by both parties shall be performed at the same rate in the schedules included in Exhibit "C".

4. **Termination**

- 4.1 This Agreement may be terminated for cause by the City Manager if the Contractor is in breach and has not corrected the breach within sixty (60) days after written notice from the City identifying the breach, or for convenience by action of the City Council upon not less than sixty (60) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

- 4.2 This Agreement may be terminated for cause by the Contractor if the City is in breach and has not corrected the breach within sixty (60) days after the written notice from the Contractor identifying the breach.
- 4.3 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of the City as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
- 4.4 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the City Manager which City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 4.5 In the event this Agreement is terminated for convenience, Contractor shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of City's election to terminate, Contractor shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by the City, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for the City's right to terminate this Agreement for convenience.
- 4.6 In the event this Agreement is terminated, any compensation payable by the City shall be withheld until all documents are provided to the City pursuant to Section 7.1 of this Agreement. In no event shall the City be liable to the Contractor for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

5. **Indemnification**

- 5.1 Contractor shall indemnify, hold harmless and, at the City's option, pay for an attorney selected by the City, to defend the City and any of its elected officials, officers, agents, servants, and employees from and against any and all liability, suits, actions, damages, costs, losses, and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, arising out of any errors, omissions, misconduct or negligent acts, errors or omissions of the Contractor, its officials, agents, employees or subcontractors in the performance of the services of the Contractor under this Agreement, whether direct or indirect and from and

against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof.

- 5.2 Contractor shall indemnify, hold harmless and, at the City's option, pay for an attorney selected by the City, to defend the City and any of its elected officials, officers, agents, servants, and employees from and against any and all liability, suits, actions, damages, costs, losses, and expenses, including attorneys' fees, demands and claims sought by third parties related to any alleged breach of any non-competition of similar provisions.
- 5.3 Contractor shall indemnify the City and any of its elected officials, officers, agents, servants and employees, for all loss, damage, expense, or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement by Contractor of any patent, trademark, copyright, trade secret or other proprietary right relation to services furnished pursuant to this Agreement. Contractor will defend and/or settle at its own expense any action brought against the City and any of its elected officials, officers, agents, servants, and employees, to the extent that it is based on a claim that products or services furnished to the City by the Contractor pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service become unusable as a result of any such infringement or claim.
- 5.4 Contractor acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring and indemnity.
- 5.5 The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due Contractor under the Agreement may be retained by the City until all of the City's claims for indemnification pursuant to the Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by the City.

6. **Insurance**

In order to insure the indemnification obligation contained above, Contractor shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverages as set forth in the RFP, and made a part hereof, and on file in the City Clerk's office.

7. **Miscellaneous**

7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the City. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of the City and shall be delivered by the Contractor to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to Contractor shall be withheld until all documents are received as provided herein.

7.2 **Audit and Inspection Rights and Retention of Records.** The City shall have the right to audit the books, records, and accounts of the Contractor that are related to this Agreement. The Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Contractor shall preserve and make available, at reasonable times for examination and audit by the City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), as stated in Section 7.29 of this agreement. Such retention of such records and documents shall be at Contractor's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the City to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the City's disallowance and recovery of any payment upon such entry.

In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance.

In addition, Contractor shall provide a complete copy of all working papers to the City prior to final payment by the City, in accordance with the RFP.

- 7.3 **Policy of Non Discrimination.** Contractor shall not discriminate against any person in its operations, activities, or delivery of services under this Agreement.

Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

- 7.4 **Public Entity Crime Act.** Contractor represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 289.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities. In addition to the foregoing, Contractor further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

- 7.5 **Independent Contractor.** Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees or agents of City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of Contractor. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries.** Neither Contractor nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices.** Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

City Manager
City of Marathon
9805 Overseas Highway
Marathon, FL 33050

With a copy to:
City Attorney
9805 Overseas Highway
Marathon, FL 33050

CONTRACTOR:
D&J Enterprises, Inc.
Jason Sanders,
Vice President of Operations
3495 Lee Road 10
Auburn, AL 36832

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by Contractor, except with the prior written approval of the City Manager, which shall be in his or her sole and absolute discretion. In addition, Contractor shall not subcontract any portion of the work required by this Agreement, except with the prior written approval of the City Manager, which shall be in his or her sole and absolute discretion. A list of all such subcontractors shall be included in the Bid. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Bid, a list of

such subcontractors shall be provided to the City Manager, subject to his or her approval.

Contractor represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFP and to provide and perform such services to City's satisfaction for the agreed compensation.

Contractor shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

- 7.9 **Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other person from representing themselves in any action or in any administrative or legal proceeding.

In the event Contractor is permitted to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

- 7.10 **Contingency Fee.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon resulting from the award or making of this Agreement. For a breach or violation of this provision, City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the

Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

- 7.11 **Materiality and Waiver of Breach.** City and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of the Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.12 **Compliance with Laws.** Contractor shall comply with all federal, state and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement, including, but not limited to:
- a. **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).
 - b. **Copeland "Anti-Kickback" Act:** Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).
 - c. **Davis-Bacon Act:** Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - d. **Contract Work Hours and Safety Standards Act:** Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - e. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT:** The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Any violations thereof must and will be reported to FEMA and the Regional Office of the Environmental Protection Agency.
- (1) Clean Air Act:

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 and understands and agrees that the City will, in turn, report each violation as required to assure notification to 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 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

(2) Federal Water Pollution Control Act:

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 and understands and agrees that the City will, in turn, report each violation as required to assure notification to 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 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.13 **Severance.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Contractor elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

7.14 **Joint Preparation.** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

7.15 **Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or

provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

- 7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Monroe County, Florida. The parties expressly waive all rights to trial by jury for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. This Agreement is not subject to arbitration.
- 7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- 7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between Contractor and City, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreement or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.
- 7.19 **Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- 7.20 **Incorporation by Reference.** The truth and accuracy of each “Whereas” clause set forth above is acknowledged by the parties. The attached Exhibits A, B & C are incorporated hereto and made a part of this Agreement.
- 7.21 **Multiple Originals.** This Agreement may be fully executed in two (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.22 **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 7.23 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to

execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

- 7.24 **E-Verify.** The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. The City Shall request a confirmation from the Contractor that this section is implemented.
- 7.25 **Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.
- 7.26 **Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.
- 7.27 **DEBARMENT AND SUSPENSION:** The contractor is subject to the debarment and suspension regulations implementing Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension). A contract will not and cannot be made to parties listed in the SAM (System for Award Management) exclusions. SAM exclusions is the list maintained by the General Services Administration that contains the names of parties, debarred, suspended or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.

(1) The bidder/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).

(2) The bidder/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.

(3) This certification is a material representation of fact relied upon by City. 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 City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer 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 bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.28 **BYRD ANTI-LOBBYING AMENDMENTS** (31 U.S.C. 1352): Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. 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 an 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.

2. 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, an officer or

employee of Congress, or an employee of 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.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor D&J ENTERPRISES, INC. certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

7.29 **PUBLIC RECORDS:** Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (1) Keep and maintain public records required by the City to perform the service.
- (2) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow

the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.

(4) Upon completion of this Agreement, transfer, at no cost, to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon the completion of this agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 305-743-0033, cityofmarathon@ci.marathon.fl.us, OR BY MAIL AT 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050

7.30 SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS: The contractor agrees to ensure that it takes all necessary six (6) steps identified in 2 CFR 200.321 to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

IN WITNESS WHEREOF, City and Contractor have set their hands and seals, as of the day and year first above written.

ATTEST:

CITY OF MARATHON, FLORIDA

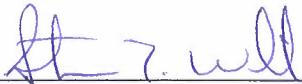


Diane Clavier
City Clerk



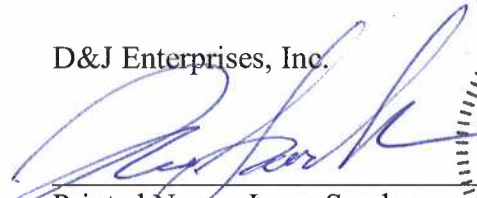
George Garrett
City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



Steve Williams, City Attorney

D&J Enterprises, Inc.



Printed Name: Jason Sanders
Title: Vice President of Operations

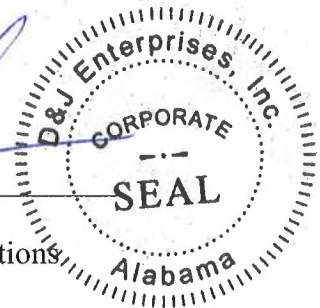


EXHIBIT A

SECTION 6 - SCOPE OF SERVICES

1. SCOPE OF CONTRACTED SERVICES

Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver disaster response services as requested by the City of Marathon including but not limited to the timely removal and lawful disposal of all eligible storm-generated debris.

These contracted services shall include all items listed below and provide for the cost effective and efficient removal and lawful collection and disposal of debris on all public streets, roads, and other rights-of-way, including any other locally-owned facility or site as may be directed by the City of Marathon, and in accordance with FEMA requirements. Contract services will only be performed when requested and as designated by the City of Marathon Manager, by approved Work Authorization issued in writing. Contractor shall load and haul the debris from within the legal boundaries of the City of Marathon to a site(s) specified by the City of Marathon as set out in Section 4.8 below.

The City of Marathon reserves the right to assign work to various contractors, at its sole discretion. The City of Marathon also reserves the right to approve all subcontractors hired by the contractor and/or to require the contractor to dismiss a subcontractor for cause, upon request. Upon issuance of the Notice To Proceed, the Contractor shall within five (5) days submit a list of all subcontractors to be used on the project. Any subcontractors to be used on the project after commencement shall be submitted to the city for approval prior to the said subcontractor performing any work.

1.1 Emergency Push/Road Clearance:

Contractor shall accomplish the cutting, tossing and/or pushing of debris, hanging limbs, or leaning trees off of transportation routes as identified by and directed by the City of Marathon. The emergency push will normally be completed within the first 70 hours following the activation of this contract, unless notified otherwise by the City of Marathon. Time and material rate shall be applicable. The contractor shall provide necessary equipment to the City as requested prior to the event and have them on standby and available immediately after the event. The City, at its sole discretion, may assign this work to another contractor and as such, is under no obligation to the contractor for this portion of the work.

1.2 Debris Removal from Public Right-of-Way (ROW):

1.2.1 As directed by the City of Marathon, Contractor shall load and haul all eligible debris to an approved and certified Temporary Debris Management Site (TDMS)

or other disposal destination, as specified by and provided by the City of Marathon. All collection and hauling will be consistent with Federal requirements applicable to the disaster event. The Contractor will ensure compliance with instructions from the City of Marathon regarding the collection, hauling and disposal of hazardous waste and/or other categories of debris.

1.2.2 The contractor shall remove all debris piles by type of material, and continue on the same street until all debris is pick-up for that particular pass. Contractor shall not "cherry pick" the piles for convenience. All effort shall be made to leave the area clean of debris.

1.3 Debris Clearance/Removal from Public Property:

As directed by the City of Marathon, Contractor shall clear eligible debris from public property, load and haul all debris to a designated temporary debris management site (TDMS) or other disposal destination designated by the City of Marathon. If necessary, the City of Marathon will confirm the FEMA eligibility of the debris to be removed.

1.4 Demolition of Structures and Construction Debris Removal:

As directed by the City of Marathon, Contractor shall demolish unsafe structures and remove debris that has been determined by the City of Marathon to be a threat to the health and safety of the public. Contractor will exercise due diligence in demolishing and/or removing debris from private property. The City of Marathon will direct actions to secure the Right of Entry (ROE) onto private property to allow demolition and removal. Contractor will ensure hazardous materials screening and utilities disconnection as appropriate. All applicable local, state and federal regulatory requirements regarding asbestos containing materials shall be adhered to unless waived by applicable regulatory authorities.

1.5 Private Property Waivers:

The City of Marathon will direct all actions to secure necessary permissions, waivers and ROE agreements from real property owners and/or Homeowner Associations (HOA) as required for the lawful removal of debris and/or demolition of structures from real properties. All such actions will be consistent with Federal requirements applicable to the disaster event.

1.6 Debris Separation/Reduction and Temporary Debris Management Site (TDMS) Management:

Contractor shall be solely responsible to operate and manage the TDMS to accept and process all event debris. All actions will be implemented by the Contractor

only with the prior approval of the City of Marathon. Actions by the Contractor will include, but are not limited to, the following:

- 1.6.1 Ensure that only debris authorized by the City of Marathon's Contract Administrator will be allowed into the TDMS sites.
- 1.6.2 Provide to the City of Marathon a video record of the pre- and post-use site conditions.
- 1.6.3 Conduct an onsite Phase 1 Environmental Audit, if required by the City of Marathon. Contractor shall submit list of engineering firms that shall be engaged by Contractor to perform such Audit.
- 1.6.4 Prior to any debris transported to the TDMS, the Contractor shall secure said property by fencing, cable, or any other acceptable means necessary to prevent any unauthorized or dumping at the sites.
- 1.6.5 Prior to use of the property, the contractor shall install silt fencing around the perimeter of the site. The silt fence shall be inspected and accepted by the City before any debris is transported to the site.
- 1.6.6 Prepare a plan of proposed site layout and review with the City of Marathon prior to its implementation. The plan shall include, but not be limited to, designated areas for the different debris types, internal access, fire protection, and sanitary facilities.
- 1.6.7 Prepare a plan for site security and traffic control for both on the site and adjacent roadways and review with the City of Marathon prior to its implementation.
- 1.6.8 Provide adequate fire prevention/fighting equipment, including water truck and hoses, on site throughout the operational period of the TDMS.
- 1.6.9 Build and/or maintain roads as necessary for TDMS operation.
- 1.6.10 Provide and/or construct and maintain stabilized roofed inspection towers sufficient for a minimum of three inspectors; Towers will be positioned at any entrance and any exit of the TDMS.
- 1.6.11 Comply with any applicable local, state, and federal environmental requirements governing debris sites, to include, but not limited to, litter control fencing, silt fencing, dust control, hazardous materials containment area, and/or water retention berms. It is the contractors responsibility to keep up to date version of all said regulations.
- 1.6.12 Confine hours of operation of the TDMS to those determined by the City of Marathon.
- 1.6.13 Stage and process all debris in accordance with instructions from the City of Marathon, and consistent with FEMA requirements.
- 1.6.14 Contractor shall be responsible to keep debris segregated at the TDMS. No additional payment shall be made to debris segregation as a result of mismanagement of the site by the contractor.
- 1.6.14 Process and reduce debris by methods that may include, but not be limited to, reduction by grinding, chipping, air curtain incineration when approved, or other alternate methods of reduction, such as compaction.

- 1.6.15 Prior to reduction and to the extent practical, segregate debris between vegetative debris, construction and demolition debris, white goods, and hazardous waste.
- 1.6.16 Develop and implement, with the approval of the City of Marathon, a procedure for management of the receipt of unauthorized and/or ineligible debris at the TDMS.
- 1.6.17 Provide the City of Marathon with proper and acceptable documentation (including destination, tickets, volume/weight) for final disposal of debris accepted at the TDMS.
- 1.6.18 Upon the closure of the TDMS, restore the TDMS to its pre-use condition, meeting all regulatory requirements for the site closure, inclusive of required soil testing; Survey the site to verify that it has been restored to pre-use elevation and condition.
- 1.6.19 As directed by the City of Marathon, sod, hydro-seed or sprig the TDMS property once all other site closure issues have been addressed and cleared by the appropriate environmental agency.
- 1.6.20 As directed by the City of Marathon conduct post use soil and water tests.
- 1.6.21 Provide a tent, chairs, and portable toilet for staff to use while monitoring and working at the site.
- 1.6.21 Any violations or corrective issues required by the City or any agency exerting jurisdiction over the TDMS shall be immediately corrected by the contractor. The contractor shall be responsible for any fines or actions required as a result of non-conformance in the performance of the management of the TDMS.

1.7 Designation and Management of Staging Areas:

City of Marathon shall provide list of staging areas to Contractor. Contractor shall identify appropriate staging areas for approval by City of Marathon that would accommodate activities such as truck/equipment certification, provision of temporary fueling or vehicle maintenance (as required), and other operational service functions related to debris removal efforts. Contractor shall provide temporary tent, sanitary and other appropriate conveniences necessary for the care and well-being of all Contractor and sub-contractor personnel. The City of Marathon will approve of the location, size, layout and services to be provided at any staging area established by the Contractor, who will insure that each area is managed in accord with all applicable regulatory requirements and in a manner to minimize disruption to the surrounding neighborhoods.

1.8 Management of Tree Debris:

Tree debris is herein defined as vegetation, stumps, hanging limbs, leaning trees, and similar materials resulting from trees damaged during the event. The City of Marathon shall direct the Contractor regarding removal, collection, hauling and disposal of eligible tree debris, which will adhere to the most current FEMA

Guidance Policy Disaster Specific Guidelines. Stumps within the public rights-of-way deemed by the City of Marathon to be public safety hazards will be removed and disposed of by the Contractor. The Contractor is responsible for collection, hauling and disposal of all tree debris on the cost basis of the cubic yard rate for regular vegetative debris.

1.9 Disaster Recovery Technical Assistance:

The Contractor will provide Disaster Recovery Technical Assistance to the City of Marathon to assist with guidance and consultation on all aspects of the recovery process. This assistance shall include documentation and management for the public assistance program, planning, training and exercise development, as well as attendance at the City of Marathon's Emergency Operations Center (EOC) during activations of the EOC for exercise and actual emergency events as requested by the City of Marathon Representative.

1.10 Post Event Support Equipment:

The Contract will supply, as may be requested by the City, with post event equipment including but not limited to mobile satellite communication gear, mobile high speed internet access, mobile radio communication gear, mobile fueling gear, mobile kitchen, mobile laundry facility.

1.11 Beach Cleaning:

In the event that the City's beaches have been damaged, the Contractor shall provide all necessary equipment, and manpower, as directed by the City, to remove debris, screen sand, and place the screened sand on the beach. All debris generated from the screening operation shall be removed from the beaches and paid as a unit cost for debris removal as stated in Table B of Attachment A

2. **PERFORMANCE OF SERVICES**

2.1 Description of Service:

The Contractor agrees to perform contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations, and permits. Only the highest quality workmanship will be acceptable. Services, equipment and workmanship not conforming to the intent of the Contract or meeting the approval of the City of Marathon may be rejected. Replacements and/or re-work, as required, will be accomplished on a timely basis at no additional cost to the City of Marathon.

2.2 BID FORM - Cost of Services:

The Contractor shall submit Attachment A providing a Bid on the Bid Form in these Bidding Documents. The Contractor shall bear all of its own operating costs and is responsible for all permit and license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish contracted services. Upon execution of the Contract, payments will be made based on a unit price basis as specified in the Sample Contract in the Bidding Documents.

Unknown and/or unforeseen events or conditions may require an additional line item to the costs given in Attachment "A" or "B", of the Bidding Documents. Any amendments, extensions or changes to the scope of contracted services are subject to full negotiations between the Contractor and the City of Marathon and approval by formal action as deemed necessary by the City of Marathon.

In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the most current version of the FEMA Schedule of Equipment Rates, to be applied at all times for implementation of the Contract.

3. **STANDARDS OF PERFORMANCE**

3.1 Contractor Representative and General Operations Plan:

The Contractor shall have a knowledgeable and responsible representative report to the City of Marathon and provide a copy of final Contractor's General Operations Plan within ten (10) days following the execution of the Contract. The City of Marathon will approve the General Operations Plan prior to its implementation within the City of Marathon. The Contractor's Representative shall have the authority to implement all actions required to begin the performance of contracted services as set forth in the Contract and the Contractor's General Operations Plan.

3.2 Mobilization:

When a notice to proceed in advance of an event has been received by the Contractor, he/she will make all necessary arrangements to mobilize a minimum of 50% of the required resources within 48 hours and 100% of the required resources within 96 hours to commence and conduct these contracted services. It shall be the City's discretion to require pre-event staging at a location designated by the City. The City of Marathon may take such other actions as necessary to address the failure of the Contractor to mobilize resources on the schedule required by the City of Marathon.

4. **GENERAL RESPONSIBILITIES**

4.1 Other Agreements:

The City of Marathon may be required to enter into agreements with Federal and/or State agencies for disaster relief. The Contractor shall be bound by the terms and conditions of such agreements, regardless of the additional burdens of compliance. City of Marathon will provide the Contractor with a copy of any applicable agreements.

4.2 The City of Marathon's Obligations:

The City of Marathon shall furnish all information and documents necessary for the commencement of contracted services, including a written Notice To Proceed.

4.3 Contractor's Conduct of Work:

The Contractor shall be responsible for planning and conducting all operations in a satisfactory and professional manner. All Contractor personnel and subcontractors shall demonstrate and maintain a courteous and responsible demeanor toward all persons. The City shall have the right to remove any of the Contractor's personnel or subcontractor, that at its sole discretion is deemed to violate this clause.

4.4 Supervision by Contractor:

The Contractor will supervise and/or direct all contracted services performed by its employees, agents and subcontractors. The Contractor is solely responsible for all means, methods, techniques, safety and other procedures. The Contractor will employ and maintain a qualified Contractor's Representative as project manager at the work site(s) who shall have full authority to act on behalf of the Contractor. All communications given to the Contractor's Representative by the City of Marathon shall be as binding as if given to the Contractor.

4.5 Self-sufficiency of Contractor and Subcontractors:

The Contractor shall ensure that its work force, including subcontractors, maintain self-sufficiency related to fuel, vehicle repair/maintenance, housing, sanitation food and related accommodations, in a manner that is consistent with local requirements and minimizing adverse effects on the community, and at no additional cost to the City.

4.6 Damages by Contractor:

The Contractor shall be responsible for conducting all operations, whether contemplated by the Contract or later requested as specialized services, in such a

manner as to cause the minimum damage possible to existing public, private and commercial property and/or infrastructure. The Contractor shall also be responsible for any damages resulting from its employees and subcontractors operations. The Contractor must report such damage to the City of Marathon in writing within 24 hours. Should any property be damaged as a result of the Contractor's operation, the City of Marathon may either bill the Contractor for the damages, withhold funds due to the Contractor, or the Contractor may also repair all damage to the satisfaction of the City of Marathon.

4.7 Contractor's Duty Regarding Other Contractor(s):

The Contractor acknowledges the presence of other contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work, and cooperate with any other entity as directed by the City.

4.8 Contractor's Ownership of Debris:

All debris, once collected by the Contractor, shall become the property of the Contractor or the City of Marathon may exercise ownership of flow control for removal and lawful disposal. The debris may consist of, but not be limited to, vegetation, construction and demolition debris, white goods and collected hazardous materials.

4.9 Contractor's Disposal of Debris:

Unless otherwise directed by the City of Marathon, the Contractor shall be responsible for determining and executing the method and manner for processing and/or lawful disposal of all eligible debris as approved by the City of Marathon. The locations of the TDMS shall be approved by the City of Marathon. Final disposal sites shall be provided to the City of Marathon in writing. Copies of receipts and disposal tickets shall be provided to the City of Marathon, or its monitoring contractor, when complete. Separate unit prices for delivery and disposal of debris to final disposal may be allowed by the City of Marathon. Upon request from the Contractor, other sites may be utilized as directed and/or approved by the City of Marathon. All sites shall be permitted and/or otherwise authorized by the appropriate regulatory agency.

5. **GENERAL TERMS AND CONDITIONS**

5.1 Multiple, Scheduled Passes:

The Contractor shall make scheduled passes and/or unscheduled passes of each area impacted by the event, at the direction of the City of Marathon. The City of Marathon shall direct the interval timing of all passes. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the City of Marathon. The Contractor will document the completion of all passes based on the direction from the City of Marathon and will provide this documentation to the City of Marathon on the frequency requested by the City of Marathon.

5.2 Clean as you go Policy:

The Contractor shall provide a “clean as you go” policy and supervise and enforce such policy during debris management operations.

5.3 Operation of Equipment:

The Contractor shall operate all trucks, trailers and all other equipment in compliance with any/all applicable federal, state and local rules and regulations. All equipment shall be in good working condition. All loading equipment shall be operated from the road, street, or ROW using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed outside of the public ROW unless otherwise directed by the City of Marathon. Should operation of equipment be required outside of the public ROW, the Contractor will ensure that a ROE agreement has been obtained prior to property entry.

5.4 Security of Debris During Hauling:

The Contractor shall be responsible for the security of debris on/in each vehicle or piece of equipment utilized to haul debris. Prior to leaving the loading sites, Contractor shall ensure that each load is secure and trimmed so that to the extent practical no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted and secured during transport in accordance with FOOT guidelines. As required, Contractor will survey the primary routes used by Contractor for debris hauling as soon as possible after the transport and will recover fallen or blown debris from the roadway(s).

5.5 Traffic Control:

Contractor shall mitigate impact on local traffic conditions to the greatest extent possible. Contractor is responsible for establishing and maintaining appropriate traffic control in accordance with the most current edition of the US Department of Transportation Manual or Uniform Traffic Control Devices (MUTCD). Contractor shall provide sufficient signage, flagging and barricading to ensure the

safety of vehicular and pedestrian traffic at all debris removal, collection, reduction and/or disposal sites.

5.6 Work Days/Hours:

Work days and/or work hours shall be as directed by the City of Marathon following consultation and notification to Contractor. Working hours and work on holidays shall be at the discretion of the City of Marathon.

5.7 Hazardous and Industrial Wastes:

Upon the pre-authorization of the City of Marathon, the Contractor shall set aside and reasonably protect all hazardous or industrial material encountered during debris removal operations for collection and disposal. Prior to such actions, the Contractor will prepare a Hazardous and Industrial Materials Cleanup and Disposal Plan, and this plan will be in accordance with all local, state and Federal requirements and will be approved by the City of Marathon. In accord with this plan, the Contractor shall use the subcontracting services of a firm specializing in the management and disposal of such materials and waste, if and when directed to do so by the City of Marathon.

5.8 Work Safety:

Contractor shall provide and enforce a safe work environment as prescribed in the Occupational Safety and Health Act of 1970, as amended. Contractor will provide such safety equipment, training and supervision as may be required by the City of Marathon and/or other governmental regulations. Contractor shall ensure that its subcontracts contain an equivalent safety provision.

5.9 Inspection of Contractor Operations:

All debris shall be subject to inspection by the City of Marathon, or it's designee, and other public authorities to ensure compliance with the Contract, applicable federal, state and local laws, and in accordance with generally accepted standards of emergency management professionals. The City of Marathon will, at all times, have access to all work sites and disposal areas. In addition, authorized representatives and agents of the government shall be permitted to inspect all work, materials, invoices, and other relevant records and documentation.

5.10 Corrective Actions Required of Contractor

When instructed by the City of Marathon's Representative, the Contractor will immediately implement corrective actions to address health and safety issues and/or any other actions inconsistent with any of the terms of the Contract, as determined by the City of Marathon in its sole discretion and notify the City of Marathon within 24 hours.

5.11 Ineligible Work:

The Contractor will not be paid for the removal, transportation, storage, reduction and/or disposal of any material when not previously instructed by the City of Marathon that such actions are eligible for state and/or Federal reimbursement.

5.11.1 Eligibility Inspections:

A representative for the City of Marathon shall inspect each load, or shall inspect at some other frequency of the City of Marathon's direction, to verify that the contents are in accordance with the accepted definition of eligible debris.

5.11.2 Eligibility Determinations:

If any load is determined to contain material that does not conform to the definition of eligible debris, the load will be ordered to be deposited at another approved and certified receiving facility. No payment will be allowed for that load and the Contractor will not invoice the City of Marathon for such loads. The City of Marathon, through its authorized representative, will be the sole judge as to whether the material conforms to the definition of eligible debris.

5.12 Other Agencies:

The term "government" as used in the Contract refers to those governmental agencies which may have a regulatory or funding interest in the Contract.

5.13 TERMINATION FOR CONVENIENCE AND CAUSE: This Contract may be terminated by the CITY upon thirty (30) days advance written notice to the CONTRACTOR at the primary business address as designated on the signature page herein; however, if any work or service hereunder is in progress but not completed as of the date of termination, then this Contract may be extended upon written approval from the CITY until said work or services are completed and accepted by the CITY. In the event this Contract is terminated or cancelled upon the request and for the convenience of the CITY with such thirty (30) day advance written notice, the CITY shall reimburse the CONTRACTOR for actual work satisfactorily completed. In the event of a material breach, default, or negligence on the part of the CONTRACTOR, or any other articulable cause, the CITY reserves the right to terminate the Contract by issuing a written notice to the CONTRACTOR which shall take effect immediately or at a time directed by the CITY. At the CITY's discretion, a cure period may or may not be afforded CONTRACTOR. Any termination costs, including demobilization of equipment and personnel, shall be incurred and paid by the CONTRACTOR. In such case, the CONTRACTOR shall not be entitled to receive further payment for services rendered from the effective date of the Notice of Termination.

- 5.14 **MINIMUM LEVEL OF SERVICE:** The Contractor shall provide the City multiple estimated minimum levels of service commitments at the time of a “declared emergency” by the City. These multiple commitments shall include, but shall not be limited to, mobilization schedules, estimated number of calendar days for completion and resource designations. The multiple commitments shall also be commensurate with the required minimum level of service for varying degrees of severity of the event. The determination as to which minimum level of service commitment is implemented shall be the responsibility of the City. This shall be based on the actual severity and impact of the event.
- 5.15 **PERFORMANCE REMEDY NOTIFICATION:** Failure of the Contractor to meet the minimum level of service commitments, once debris management services commence, shall result in the issuance of a Performance Remedy Notification from the City to the Contractor. Once this date and time stamped notification is issued, the Contractor shall have a twenty-four (24) hour period in which to respond (in writing) and take corrective action. Failure to do so may result in the assessment of liquidated damages against the Contractor or its Surety.
- 5.16 **LIQUIDATED DAMAGES:** Parties agree that damages are difficult to determine but the following liquidated damages are agreed to be a reasonable cost for any delays: If the Contractor shall neglect, fail or refuse to START the Work within the specified time in this agreement, or any proper extension thereof granted by the City, then the Contractor hereby agrees, as part consideration for awarding the Agreement, that the City reserves the right to assess damages in the event that the Contractor response is not timely in accordance with the terms of this Agreement and the Contractor agrees to pay the City said sum for each and every calendar day that the Contractor shall be in default after the time stipulated in the Agreement for STARTING the Work. The Contractor and City acknowledge and agree that said sum is not a penalty but liquidated damages for breach of contract. The City and Contractor agree that the damages that will be incurred by the City as a result of Contractor's delay in meeting a START date are of a kind difficult to accurately estimate, and the Contractor further agrees that the said sum amount is reasonable of the damages that will actually be incurred by the City in the event of any such delay and not a penalty.
- 5.17 **REMEDIES:** Any Agreement or Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the agreement shall be in a State Court of competent jurisdiction located in Monroe County. With the exception of the choice of law and venue provisions contained herein, no remedy conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

5:18 PUBLIC RECORDS: Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (5) Keep and maintain public records required by the City to perform the service.
- (6) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (7) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.
- (8) Upon completion of this Agreement, transfer, at no cost, to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon the completion of this agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 305-743-0033, cityofmarathon@ci.marathon.fl.us, OR BY MAIL AT 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050

5:19 ACCESS TO RECORDS: The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide the City, 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.
- (2) 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.
- (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract

6. **REPORTS. CERTIFICATIONS AND DOCUMENTATION**

6.1 Reports:

The Contractor shall submit periodic, written reports in a format required by the City of Marathon documenting the progress of debris removal and disposal. These reports may include, but are not limited to:

6.1.1 Daily Reports:

Daily reports may detail the locations where passes for debris removal were conducted, the quantity of debris (by type) removed and disposed of, the total number of personnel crews engaged in debris management operations, and the number of grinders, chippers and mulching machines in operation. Contractor will also report damages to private property caused by the debris operation or damage claims made by citizens and such other information as may be required to completely describe the daily conduct of Contractor's operations within 24 hours.

6.1.2 Weekly Summaries:

A summary of all information contained in the daily reports as described in Section 6.1.1, within two days of the close of the week. At the request of the City of Marathon, the data making up the weekly summaries shall also be submitted in electronic format, utilizing Microsoft Excel or Access. The submitted electronic weekly data will include: Collection contractor or sub-contractor, load ticket number, load date, load location, truck yardage, percent full, calculated yardage (or weight if applicable) field monitor name I number, TDMS location, tower monitor I name, debris materials categorization, and location of collection, e.g., ROW, FHWA, Canal, etc.

6.1.3 Report Delivery:

The scheduling, point of delivery and receiving personnel for the debris operations report will be directed by the City of Marathon, in consultation with the Contractor.

6.1.4 Data Reconciliation

Reconciliation of data will be accomplished weekly between the Contractor and the City of Marathon's Representative. All discrepancies will be resolved within 5 days.

6.15 Data Storage/Access

Throughout the debris removal operations, Contractor shall maintain an ongoing updated database to be made available to the City within 24 hours upon request,

that stores data and true document images, separated by incident, of the following: equipment certification, load tickets, tipping tickets and invoices. These data bases will remain available for five years after the project close-out0 /3..i **Public Works & Engineering:**

1. Prior to any construction activities on the site, silt fence shall be properly installed along the perimeter of the property.

2. All disturbed areas on site shall be stabilized with gravel or sod prior to final acceptance of the project.

3. Contractor shall provide a soil tracking method for construction traffic to eliminate dirt, silt and debris from entering the public R/W.

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6.1.5 Final Project Closeout:

Upon final inspection and/or closeout of the project by the City of Marathon, Contractor shall prepare and submit a detailed description of all debris management activities in an electronic spreadsheet, to include, but not limited to the total volume, by type of debris hauled, reduced and/or disposed of, final disposal locations and amounts of the debris managed by the Contractor, plus the total cost of the project invoiced to the City of Marathon. The Contractor shall provide, upon request of the City of Marathon and/or no later than project closeout, a release of liens demonstrating that all subcontractors to the Contractor have been fully paid. The Contract will provide any other additional information as may be necessary to adequately document the conduct of the debris management operations for the City of Marathon and/or government. Final project reconciliation must be approved by the City of Marathon.

6.2 Certifications

The Contractor will adhere to the process for certification of personnel and vehicles established by the Federal Emergency Management Agency, to include the following:

6.2.1 Certification of Vehicles and Load Capacity

- a. Contractor shall ensure that all equipment is certified in accordance with most current federal procedures.
- b. After a disaster, the City of Marathon, or its designated representative, will begin the equipment certification at a pre-designated site, or at staging areas established by the City of Marathon.
- c. All Contractor and subcontractor trucks shall have valid registrations, insurance and meet basic operational criteria: tailgates or equivalent containment devices, tarps, etc., as well as

all applicable motor vehicle safety requirements. Drivers shall possess valid licenses.

- d. Truck body dimensions shall be measured, and information recorded on certification forms with calculated capacity noted. Each truck will receive two placards, which shall be affixed on opposite sides of the truck body. The placards will be at least 42" x 24" with 6" lettering. The truck driver will be provided up to two (2) copies of a vehicle certification sheet by the Contractor and also provide copies for sub-contractor's records.
- e. Contractor may be required to provide a scale capable of weighing large trucks and equipment.

6.2.2 Certification of Personnel

The Contractor will certify to the City of Marathon that all Contractor and subcontractor personnel have received required and adequate training in relevant emergency response, disaster recovery, and debris management operations. Upon request of the City of Marathon, the Contractor will provide documentation certifying the adequacy of the training, experience and capabilities of all Contractor and subcontractor personnel, to include but not be limited to the following:

- 6.2.2.1 Senior management personnel of the Contractor assigned to implement work authorizations pursuant to the Contract will participate, upon request, in training and briefing sessions held by representatives of Monroe County and/or the City of Marathon.
- 6.2.2.2 Senior, supervisory personnel of the Contractor and all subcontractors thereto will have received training in debris management, the operational concepts established by the Monroe County Countywide Debris Management Plan, and the implementation of the National Incident Management System.
- 6.2.2.3 Personnel assigned by the Contractor as responsible for data management, invoicing and other documentation duties will be trained in the data management concepts and approaches to be used by the City of Marathon.
- 6.2.2.4 Vehicle and equipment operators will be fully licensed and certified, as required by applicable local, State and Federal statutes and regulations.
- 6.2.2.5 Upon their deployment for field operations, all Contractor and subcontractor personnel will be briefed or trained appropriately in their duties, responsibilities, and the procedures to be utilized throughout the debris management process, including safety

procedures, load ticket management procedures, and accident reporting procedures

6.3 Utilization of a Standardized “load ticket”:

The Contractor and all subcontractors will utilize a standardized “load ticket” for documenting each load of debris from its origin to the TDMS and/or final disposal location. The “load ticket” utilized will be identical to the sample provided by the Contractor in Attachment B.

6.4 Additional Supporting Documentation:

Contractor shall submit sufficient reports and/or documentation for debris loading, hauling, disposal, and load capacity measurements, any other services provided by Contractor as may be required by the City of Marathon and/or other governmental entity to support requests for debris project reimbursement from external funding sources.

6.5 Report Maintenance:

The Contractor will be subject to audit by federal, state and local agencies pursuant to the Contract. The Contractor will maintain all reports, records, debris reporting tickets and Contract correspondence for a period of not less than three (3) years.

7. DESCRIPTIONS

7.0 Description of Unit Price Bid items:

Table A - Unit Prices: The Contractor will provide all services and expenses necessary for the emergency push, and additional service as requested requiring manpower or equipment as requested by the City with the exception of debris hauling, TDMS management, debris reduction, and final haul-out for a fixed unit price as a cost per hour. The City reserves the right to contract this portion of the work to other contractors at the sole discretion of the City.

Table B - The Contractor will provide all services and expenses necessary for the, debris pickup and hauling, white goods collection and processing, processing of debris at the TDMS, debris reduction, and final disposal for a fixed unit price as a cost per cubic yard, for the debris types noted below, but excluding debris designated as hazardous wastes. This cost is inclusive of all related expenses including but not limited to, contract administration, technical assistance to the jurisdiction, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary, and any other cost associated with the operation for implementation of debris management operations by the Contractor as defined in the Contract.

1. Leaners, hangers, and stumps (\$\$/item)
2. Vegetative debris (\$\$/cubic yard)
3. Construction & Demolition (\$\$/cubic yard)
4. White Goods (\$\$/Item)
5. Haul-out to final destination (\$\$/cubic yard)
6. All other inclusive items as noted in Table B

7.1 Cleaning and Restoration of Beaches:

The Contractor will remove and dispose of debris accumulated on the beaches located within the City of Marathon by written request, and will collect, screen for debris removal, and re-deposit sand on the beach that has accumulated in adjacent areas up to 2,000 feet from the original land edge of the beach. Locations will be designated by the City of Marathon's authorized representative. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.2 Debris Removal and Restoration of Canals:

The Contractor will remove debris resulting from the event that impedes the drainage and navigation of canals and adjacent banks, as directed by the City of Marathon. Debris to be removed will be vegetative and/or construction and demolition debris affecting the canals, but excludes removal of damaged and/or

abandoned boats. The Contractor will also haul, process and dispose of the collected debris at the rate established in Attachment A.

7.2.1 The Contractor will restore, re-grade, and/or reseed the canal banks and slopes, as directed by the City of Marathon. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.3 Motor Vehicles:

The Contractor will remove motor vehicles damaged by the disaster event and/or abandoned by the owner due to the circumstances of the event. The City of Marathon will identify the area(s) from which motor vehicles are to be removed. Motor vehicles will be processed by or for the Contractor in a manner that complies with all requirements for removal and processing of hazardous materials, e.g., gasoline, oils and other fluids. The Contractor will also ensure the proper final disposal of the removed vehicle. The Contractor will be reimbursed at a the rate, as established in Attachment A inclusive of all towing, processing and disposal costs.

7.4 Boats:

Boats severely damaged by the disaster event, and abandoned in or on the canals, marinas, and beaches of the City of Marathon will be collected by the Contractor, processed for removal and disposal of hazardous materials in accord with applicable regulations, demolished and transported to a suitable location for final disposal. The City of Marathon will determine the vessels to be removed, will establish that they have been legally abandoned by their owners, and will take other necessary steps as required by law before directing the Contractor to remove and dispose of the vessel. The Contractor is otherwise responsible for compliance with all regulations and requirements applicable to the removal and disposal process. The Contractor will be reimbursed at the rate for this service as established in Attachment A..

7.5 Hazardous Waste and Contaminated Debris Management:

The Contractor will identify, separate, collect, transport and dispose of disaster-generated debris determined to be hazardous and/or contaminated, thereby requiring that it be separately managed from other debris. The Contractor will provide trained, experienced and equipped personnel to identify hazardous waste and contaminated debris at its point of origin, as well as to direct the Contractor personnel in the safe and proper handling and disposal of the material. All hazardous waste and contaminated debris will be collected, transported and disposed of by the Contractor as required by local, state and Federal regulations. The Contractor will be reimbursed at the rate for this service as established in Attachment A

7.6 Fire Suppression Support:

In the event of water system failure in the City of Marathon, the Contractor will provide filled water trucks of a minimum capacity of 1500 gallons, and equipped with outlet valves compatible with fire hose connections meeting national standards of the National Fire Protection Association, or as otherwise specified by the City of Marathon. The City of Marathon will direct the Contractor regarding the location(s) for the truck(s) to be positioned, and the City of Marathon will provide a fully qualified and licensed driver. If the initial water supply is used, the City of Marathon will be responsible for refilling the truck. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.7 Emergency Potable Water:

The Contractor will provide the City of Marathon with whole pallets of individually bottled water drinking water. The City of Marathon will instruct the Contractor as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The Contractor will be reimbursed at a fixed rate for this service.

7.8 Emergency Delivery of Ice:

The Contractor will provide the City of Marathon with whole pallets of cubed ice made from potable water in individually packaged sacks of between 5 and 10 pounds. The City of Marathon will instruct the Contractor as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.9 Temporary Bathrooms, Showers, Kitchens and Feeding Stations:

The Contractor will provide the City of Marathon with “comfort stations,” e.g., modular units to provide for the comfort and support of disaster victims within or near impacted neighborhoods. The modular units will include tents, portable toilets, hand basins, shower units, a mobile kitchen, chairs and tables for food service, and all necessary personnel, food, equipment and supplies to operate the units for extended periods. Each comfort station must include equipment compliant with the Americans with Disabilities Act. The unit must be capable of serving three meals per day. The City of Marathon will provide law enforcement and emergency medical services staff to compliment the work force provided by the Contractor. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.10 Temporary Satellite Communications:

The Contractor will provide satellite communications units capable of voice, text messaging, data transfer and Internet access for use by City of Marathon personnel in the event of failure of other communications systems. The units will be rented/leased to the City of Marathon and will be fully equipped, including AC/DC adapters (including automotive battery chargers), instructions and carrying cases. The units will be fully operational upon delivery to the City of Marathon, without further action by the City of Marathon. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.11 Emergency Power Generation:

The Contractor will provide mobile electric power generation units for facilities and locations located within the City of Marathon. The City of Marathon will define the size and fuel type of the mobile units, which will be leased to the City of Marathon. The City of Marathon will require up to ((specify number of separate units)) of ((specify 120 and/or 240 volt)) units, ranging in capacity from ((specify range of KW needed)), and the Contractor will deliver the units to the facilities or locations designated by the City of Marathon, and ensure connection of the unit to the existing electrical wiring by a licensed electrician. The Contractor will also ensure the unit is fueled, tested, and demonstrated to be operational prior to departure from the location. The Contractor will also provide fuel for the duration of the units use by the City of Marathon, and will have readily available technical support and repair or replacement services. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.12 Intentionally Left Blank

7.13 Sewer, Culvert and Catch Basin Cleaning:

The Contractor will provide all personnel, vehicles, equipment and supplies to clean disaster-related debris, including sand and mud, from storm sewers, culverts, catch basins and draining canals. The City of Marathon will designate the storm water systems to be cleaned. This service will be provided on a per structure basis at the rate as established in Attachment A.

7.13.1 The disposal fee shall also be provided by the ton and Contractor should identify potential locations for disposal.

7.14 Decontamination of Buildings and Facilities:

The Contractor will provide for chemical and/or biological decontamination of buildings, facilities or other structures as directed by the City of Marathon. The Contractor is responsible for providing experienced, trained and equipped personnel, for all equipment and supplies, and for final disposal of all

contaminated materials removed from the structure. All operations by the Contractor must be in full compliance with all health and safety standards, as well as environmental protection requirements applicable to the decontamination and disposal process. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.15 Mold Remediation:

The Contractor will provide all personnel, equipment, supplies and services necessary for the planning of mold remediation services, removal and disposal of mold contaminated materials, and other mold remediation measures necessary for affected public buildings belonging to the City of Marathon. The Contractor will comply with all Federal guidelines on mold remediation, and ensure compliance with all applicable health, safety and environmental protection standards. The City of Marathon will designate which buildings or other structures are to be remediated, will approve the Contractor's mold remediation plan, and will designate the disposal facility to be utilized for mold-contaminated materials removed by the Contractor. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

EXHIBIT B

TABLE A - Time and Materials – First Push

Heavy Equipment	Size or Type	U/M	Quantities for Evaluation Only	Unit/Price
			<i>Operators Included</i>	
Skid Steer Loader	Bobcat S630 *	Hour	20 hr	\$125.00
Backhoe	Cat 416 *	Hour	20 hr	\$125.00
Wheel Loaders	Cat 950 *	Hour	20 hr	\$125.00
Wheel Loaders	Cat 966 *	Hour	20 hr	\$125.00
Wheel Loaders	Cat 980 *	Hour	20 hr	\$125.00
Tracked Loader	Cat 955 *	Hour	20 hr	\$125.00
Towed Loader w/Tractor	Prentice 210 *	Hour	20 hr	\$165.00
Self Loading Knuckle boom Truck	23-35 CY Body	Hour	20 hr	\$145.00
Self Loading Knuckle boom Truck	35-45 CY Body	Hour	20 hr	\$145.00
Dozer	Cat D4 *	Hour	20 hr	\$125.00
Dozer	Cat D5 *	Hour	20 hr	\$125.00
Dozer	Cat D6 *	Hour	20 hr	\$135.00
Dozer	Cat D7 *	Hour	20 hr	\$145.00
Dozer	Cat D8 *	Hour	20 hr	\$185.00
Excavators	Cat 320 *	Hour	20 hr	\$125.00
Excavators	Cat 325 *	Hour	20 hr	\$125.00
Excavators	Cat 330 *	Hour	20 hr	\$125.00
Tractor w/Box Blade	80 Hp	Hour	20 hr	\$95.00
Motor Grader	Cat 120G *	Hour	20 hr	\$155.00
Crane	30 Ton	Hour	20 hr	\$130.00
Bucket Truck	Up to 50' reach	Hour	20 hr	\$130.00
Bucket Truck	50' to 75' reach	Hour	20 hr	\$160.00
Mechanized Boom	Street Sweeper	Hour	20 hr	\$115.00
Water Truck	2000 Gallon	Hour	20 hr	\$85.00
Stump Grinder	Vermeer 252 *	Hour	20 hr	\$225.00
Chipper w/2 man crew	Morbark Storm *	Hour	20 hr	\$320.00
12-Foot Tub Grinder	Vermeer 1200 *	Hour	20 hr	\$550.00
13-Foot Tub Grinder	Vermeer 1300 *	Hour	20 hr	\$550.00
14-Foot Tub Grinder	Diamond Z 1462 *	Hour	20 hr	\$550.00
Equipment Transport w/Tractor	50 Ton	Hour	20 hr	\$125.00
Truck Mounted Winch	Tow Truck	Hour	20 hr	\$125.00

Haul Vehicles	Size or Type	U/M	Unit Price
Dump Truck	10 to 15 CY	Hour	\$120.00
Dump Truck	16 to 20 CY	Hour	\$120.00
Trailer Dump w/Tractor	30 to 40 CY	Hour	\$125.00
Trailer Dump w/Tractor	41 to 50 CY	Hour	\$125.00
Trailer Dump w/Tractor	51 to 60 CY	Hour	\$125.00
Trailer Dump w/Tractor	61 to 70 CY	Hour	\$125.00

Transportation Vehicles	Size or Type	U/M	Unit Price
Pickup Truck	1/2 Ton	Day	\$200.00
Pickup Truck	3/4Ton	Day	\$300.00
Pickup Truck	1Ton	Day	\$300.00
Box Truck	3/4 Ton	Day	\$350.00
Utility Van	3/4 Ton	Day	\$350.00
Passenger Van	9 Passenger	Day	\$350.00
Passenger Car	Full Size	Day	\$200.00

Personnel	Size or Type	U/M	Unit Price
Superintendent w/Pickup Truck	Individual	Hour	\$65.00
Supervisor w/Pickup Truck	Individual	Hour	\$65.00
Safety or QC Manager w/Pickup Truck	Individual	Hour	\$65.00
Mechanic w/Truck and Tools	Individual	Hour	\$125.00
Climber w/Gear	Individual	Hour	\$65.00
Operator w/Chainsaw	Individual	Hour	\$45.00
Laborer w/Tools	Individual	Hour	\$45.00
Traffic Control Personnel	Individual	Hour	\$45.00
Ticket Writers	Individual	Hour	\$35.00
Clerical	Individual	Hour	\$35.00
Administrative Assistant	Individual	Hour	\$35.00

* Or Comparable Equal

TABLE B - DEBRIS COLLECTION AND REDUCTION SERVICES

The Contractor will provide all services and expenses necessary for debris pickup and hauling, processing of debris at the TDMS, and final disposal for a fixed unit price as identified below. This cost is inclusive of all related expenses including contract administration, technical assistance to the City of Marathon, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary for implementation of disaster response services and operations by the Contractor as defined in the Contract.

DESCRIPTION OF SERVICES	UNIT OF MEASURE	Unit Price
Debris Removal		
Vegetative debris – Collection (including Seaweed)	Cu. Yd.	\$8.49
Construction and Demolition (excluding white goods)	Cu. Yd.	\$8.49
White Goods Collection	Each	\$45.00
White Goods Refrigerant removal	Each	\$35.00
White Goods Disposal	Each	\$30.00
Household Waste/Spoils	Lbs	\$25.00
E Waste	Each	\$25.00
DSM Site Management Processing and Loading	Cu. Yd.	\$2.70
Sand Screening and Placement	Cu. Yd.	\$12.00
Hazardous Waste/Contaminated Debris Management, collection and Disposal	Lbs	\$25.00
Reduction – Vegetative		
Grinding/Chipping	Cu. Yd.	\$.30
Burning	Cu. Yd.	\$.30
Reduction - C & D	Cu. Yd.	\$.30
Haul Vegetative to Landfill < 200 miles	Cu. Yd.	\$8.00
Haul Vegetative to Landfill > 200 miles	Cu. Yd.	\$9.00
Haul Vegetative to Local Burner	Cu. Yd.	\$4.00
Haul C & D to City designated landfill	Cu. Yd.	\$9.00

Tree Debris Removal

Hangers	Per Tree	\$65.00
Leaners		\$125.00
13" to 24"	Per Tree	\$125.00
25" to 48"	Per Tree	\$250.00
49" to 72"	Per Tree	\$450.00
> 72"	Per Tree	\$495.00
Stumps		
25" to 48"	Per Stump	\$255.00
49" to 72"	Per Stump	\$355.00
> 72"	Per Stump	\$495.00
Stump Backfill	Per Stump	\$30.00
Demolition of Structures	Sq. Ft.	\$2.00
Resulting Structure Demolition debris removal	Cu. Yd.	\$8.49
Video Record of pre-and-post-TDMS site	Each	\$1.00
Phase I Environmental Audit	Each	\$1.00
TDMS site grading	Sq. Yd.	\$3.00
Topsoil for TDMS site	Cu. Yd.	\$25.00
TDMS Sodding	Sq Yd	\$30.00
TDMS Seeding	Sq Yd	\$15.00
Re-Deploy Sand on Beaches	Cu. Yd.	\$6.00
Debris removal from canals	CY YD.	\$15.00
Disposal of debris from canals	Cu. Yd.	\$8.49
Removal and Disposal of Vessel 0'-20'	EA	\$300.00
Removal and Disposal of Vessel 20' 30'	EA	\$500.00
Removal and Disposal of Vessel 30'45'	EA	\$2,000.00
Removal and Disposal of Vessel Over 45'	EA	\$3,500.00
Motor Vehicles Removal and disposal	EA	\$275.00
Haul out Reduced Marine Debris	Cu Yd	\$8.00
Restoration of Canal banks and Slopes	Sq Ft	\$20.00
Sodding of Canal Banks & Slopes	Sq Yd	\$30.00
Fill for Canal Restoration	Cu Yd	\$25.00
Emergency power generator		
>25KW	Each Unit/wk	\$1,000.00
>50KW	Each Unit/wk	\$2,000.00
>100KW	Each Unit/wk	\$3500.00
>250KW	Each Unit/Wk	\$10,000.00
Portable Sanitary Facilities	EA/Wk/wk	\$1,000.00

Ice	Lb	\$1.00
Potable Water	Gal	\$1.00
Temp Satellite Com.	Wkly	\$2,000.00
Temp Showers	EA/Wk	\$4,500.00
Sewer, culvert cleaning	LF	\$10.00
Sewer Catch Basin Cleaning	Each Catch Basin	\$100.00
Sewer, culvert or catch basin material Disposal Fee	Cu. Yd.	\$9.00
Decontamination of buildings and facilities	Sq. Ft.	\$12.00
Fire Suppression Trailers	EA	\$1,000.00
Mold Remediation	Sq Ft	\$12.00

**AGREEMENT BETWEEN
THE CITY OF MARATHON
AND
DRC EMERGENCY SERVICES
FOR DISASTER RECOVERY SERVICES**

THIS AGREEMENT is made as of this 17th day of May, by and between **DRC EMERGENCY SERVICES** (hereinafter the “Contractor”), and the **CITY OF MARATHON, FLORIDA**, a Florida municipal corporation, (hereinafter the “City”).

WHEREAS, the City issued a Request for Proposals for Disaster Recovery Services; and

WHEREAS, proposals were evaluated and ranked; and

WHEREAS, on May 11, 2021 the City Council approved the ranking of proposals for Disaster Recovery Services and authorized the City to execute an agreement with DRC EMERGENCY SERVICES; and

WHEREAS, the City and the Contractor desire to enter into this Agreement whereby the duties and obligation each to the other are set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the City agree as follows.

1. Scope of Services

- 1.1 The Contractor must meet the requirements and perform the services identified in the Request for Proposal Term Contract for Disaster Response Services published on March 30, 2021, (the “RFP”), and made a part hereof, and on file in the City Clerk’s office, The Scope of Work listed in Exhibit A, and the Contractor’s Proposal, (the “Proposal”) attached hereto and made a part hereof, as Exhibit “B”.
- 1.2 Contractor agrees and acknowledges that Contractor is prohibited from exempting provisions of the RFP, Proposal, or in this Agreement in any of Contractor’s services pursuant to the Agreement.

2. Term

- 2.1 This Agreement shall begin on the date it is fully executed by both parties (the “Effective Date”) and shall extend for Three (3) years from the date of execution (the “Term”).

- 2.2 Execution of this contract does not guarantee the City will assign any work to the contractor. Any work assigned to the Contractor shall be at the City's own discretion. The city may assign limited scope of work and responsibility to the Contractor, and may choose to have more than one contractor perform services as determined to be in the best interest of the City.
- 2.3 After the initial term, the City shall have the option to renew for an additional term of three (3) years, and upon completion of that period, the City shall again have the option to renew for an additional term of three (3) years. The parties hereto may extend this Agreement by mutual consent, in writing, prior to the expiration of the current term. This provision in no way limits either party's right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 4 of the Agreement.
- 2.4. Contractor shall complete all services directed under this Agreement as soon as feasibly possible, and in the time necessary to accomplish the services, with the knowledge that time is of the essence. The scope and nature of the services to be performed will be directed by the City once the extent of damage has been determined. The City may impose liquidated damages of \$100.00 per day for breach of this paragraph. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City as a consequence of such delay, and both parties desiring to obviate any questions or dispute concerning the amount of said damages and the cost and effect of the failure of the Contractor to complete the services on time.

3. **Compensation**

- 3.1 The amount of compensation payable by the City to Contractor shall be based upon the rates and fees schedules as set forth in Exhibit "C", attached hereto and made a part hereof, which amount shall be accepted by Contractor as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by Contractor that these amounts are the maximum payable and constitute a limitation upon City's obligation to compensate Contractor for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon Contractor's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services as defined in Section 4 of the Proposal.
- 3.2 Contractor may submit an invoice for compensation, developed and agreed upon by the City Manager and Contractor, no more often than on a monthly basis, but only after the services for which the invoices are

submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of rates and fees with accrual of the total and credits for portions paid previously, and shall allocate the billing costs to the appropriate fund or combination of funds. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.

- 3.3 The City shall pay Contractor in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager for failure of Contractor to comply with a term, condition, or requirement of this Agreement.
- 3.4 Notwithstanding any provision of this Agreement to the contrary, the City Manager may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work of Contractor, which has not been remedied or resolved in a manner satisfactory to the City Manager. The amount withheld shall not be subject to payment of interest by the City.
- 3.5 Contractor agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which Contractor receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by the City.
- 3.6 If it should become necessary for the City to request the Contractor to render any additional services to either supplement the services described in the RFP or to perform additional work, such additional work shall be performed only as authorized by the City Manager or designee. Any such additional work agreed to by both parties shall be performed at the same rate in the schedules included in Exhibit "C".

4. **Termination**

- 4.1 This Agreement may be terminated for cause by the City Manager if the Contractor is in breach and has not corrected the breach within sixty (60) days after written notice from the City identifying the breach, or for convenience by action of the City Council upon not less than sixty (60) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

- 4.2 This Agreement may be terminated for cause by the Contractor if the City is in breach and has not corrected the breach within sixty (60) days after the written notice from the Contractor identifying the breach.
- 4.3 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of the City as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
- 4.4 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the City Manager which City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 4.5 In the event this Agreement is terminated for convenience, Contractor shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of City's election to terminate, Contractor shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Contractor acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by the City, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for the City's right to terminate this Agreement for convenience.
- 4.6 In the event this Agreement is terminated, any compensation payable by the City shall be withheld until all documents are provided to the City pursuant to Section 7.1 of this Agreement. In no event shall the City be liable to the Contractor for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

5. **Indemnification**

- 5.1 Contractor shall indemnify, hold harmless and, at the City's option, pay for an attorney selected by the City, to defend the City and any of its elected officials, officers, agents, servants, and employees from and against any and all liability, suits, actions, damages, costs, losses, and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, arising out of any errors, omissions, misconduct or negligent acts, errors or omissions of the Contractor, its officials, agents, employees or subcontractors in the performance of the services of the Contractor under this Agreement, whether direct or indirect and from and

against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof.

- 5.2 Contractor shall indemnify, hold harmless and, at the City's option, pay for an attorney selected by the City, to defend the City and any of its elected officials, officers, agents, servants, and employees from and against any and all liability, suits, actions, damages, costs, losses, and expenses, including attorneys' fees, demands and claims sought by third parties related to any alleged breach of any non-competition of similar provisions.
- 5.3 Contractor shall indemnify the City and any of its elected officials, officers, agents, servants and employees, for all loss, damage, expense, or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement by Contractor of any patent, trademark, copyright, trade secret or other proprietary right relation to services furnished pursuant to this Agreement. Contractor will defend and/or settle at its own expense any action brought against the City and any of its elected officials, officers, agents, servants, and employees, to the extent that it is based on a claim that products or services furnished to the City by the Contractor pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service become unusable as a result of any such infringement or claim.
- 5.4 Contractor acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring and indemnity.
- 5.5 The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due Contractor under the Agreement may be retained by the City until all of the City's claims for indemnification pursuant to the Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by the City.

6. **Insurance**

In order to insure the indemnification obligation contained above, Contractor shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverages as set forth in the RFP, and made a part hereof, and on file in the City Clerk's office.

7. **Miscellaneous**

- 7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the City. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of the City and shall be delivered by the Contractor to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to Contractor shall be withheld until all documents are received as provided herein.
- 7.2 **Audit and Inspection Rights and Retention of Records.** The City shall have the right to audit the books, records, and accounts of the Contractor that are related to this Agreement. The Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

Contractor shall preserve and make available, at reasonable times for examination and audit by the City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), as stated in Section 7.29 of this agreement. Such retention of such records and documents shall be at Contractor's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the City to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the City's disallowance and recovery of any payment upon such entry.

In addition, Contractor shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance.

In addition, Contractor shall provide a complete copy of all working papers to the City prior to final payment by the City, in accordance with the RFP.

- 7.3 **Policy of Non Discrimination.** Contractor shall not discriminate against any person in its operations, activities, or delivery of services under this Agreement.

Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

- 7.4 **Public Entity Crime Act.** Contractor represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 289.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities. In addition to the foregoing, Contractor further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

- 7.5 **Independent Contractor.** Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees or agents of City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of Contractor. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries.** Neither Contractor nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices.** Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

City Manager
City of Marathon
9805 Overseas Highway
Marathon, FL 33050

With a copy to:
City Attorney
9805 Overseas Highway
Marathon, FL 33050

CONTRACTOR:
DRC Emergency Services
John Sullivan,
President
110 Veterans Blvd., Suite 515
Metairie, LA 70005

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by Contractor, except with the prior written approval of the City Manager, which shall be in his or her sole and absolute discretion. In addition, Contractor shall not subcontract any portion of the work required by this Agreement, except with the prior written approval of the City Manager, which shall be in his or her sole and absolute discretion. A list of all such subcontractors shall be included in the Bid. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Bid, a list of

such subcontractors shall be provided to the City Manager, subject to his or her approval.

Contractor represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFP and to provide and perform such services to City's satisfaction for the agreed compensation.

Contractor shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

- 7.9 **Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

Contractor agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Contractor or any other person from representing themselves in any action or in any administrative or legal proceeding.

In the event Contractor is permitted to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

- 7.10 **Contingency Fee.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon resulting from the award or making of this Agreement. For a breach or violation of this provision, City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the

Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

- 7.11 **Materiality and Waiver of Breach.** City and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of the Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.12 **Compliance with Laws.** Contractor shall comply with all federal, state and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement, including, but not limited to:
- a. **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).
 - b. **Copeland "Anti-Kickback" Act:** Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).
 - c. **Davis-Bacon Act:** Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - d. **Contract Work Hours and Safety Standards Act:** Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - e. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT:** The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Any violations thereof must and will be reported to FEMA and the Regional Office of the Environmental Protection Agency.

- (1) Clean Air Act:

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 and understands and agrees that the City will, in turn, report each violation as required to assure notification to 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 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

(2) Federal Water Pollution Control Act:

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 and understands and agrees that the City will, in turn, report each violation as required to assure notification to 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 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.13 **Severance.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Contractor elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

7.14 **Joint Preparation.** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

7.15 **Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or

provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

- 7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Monroe County, Florida. The parties expressly waive all rights to trial by jury for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. This Agreement is not subject to arbitration.
- 7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- 7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between Contractor and City, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreement or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.
- 7.19 **Drug-Free Workplace.** Contractor shall maintain a drug-free workplace.
- 7.20 **Incorporation by Reference.** The truth and accuracy of each “Whereas” clause set forth above is acknowledged by the parties. The attached Exhibits A, B & C are incorporated hereto and made a part of this Agreement.
- 7.21 **Multiple Originals.** This Agreement may be fully executed in two (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.22 **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 7.23 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to

execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

- 7.24 **E-Verify.** The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. The City Shall request a confirmation from the Contractor that this section is implemented.
- 7.25 **Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.
- 7.26 **Truth-in-Negotiation Certificate.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.
- 7.27 **DEBARMENT AND SUSPENSION:** The contractor is subject to the debarment and suspension regulations implementing Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension). A contract will not and cannot be made to parties listed in the SAM (System for Award Management) exclusions. SAM exclusions is the list maintained by the General Services Administration that contains the names of parties, debarred, suspended or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.
- (1) The bidder/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).

(2) The bidder/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.

(3) This certification is a material representation of fact relied upon by City. 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 City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer 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 bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.28 **BYRD ANTI-LOBBYING AMENDMENTS** (31 U.S.C. 1352): Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. 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 an 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.

2. 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, an officer or

employee of Congress, or an employee of 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.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor DRC EMERGENCY SERVICES certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Kristy Fuentes Vice President, Secretary, Treasurer
Name and Title of Contractor's Authorized Official

6/18/2021
Date

7.29 **PUBLIC RECORDS:** Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (1) Keep and maintain public records required by the City to perform the service.
- (2) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow

the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.

(4) Upon completion of this Agreement, transfer, at no cost, to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon the completion of this agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 305-743-0033, cityofmarathon@ci.marathon.fl.us, OR BY MAIL AT 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050

7.30 SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS: The contractor agrees to ensure that it takes all necessary six (6) steps identified in 2 CFR 200.321 to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;


(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.


IN WITNESS WHEREOF, City and Contractor have set their hands and seals, as of the day and year first above written.

ATTEST:

CITY OF MARATHON, FLORIDA

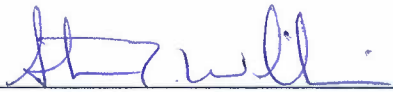


Diane Clavier
City Clerk



George Garrett
City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



Steve Williams, City Attorney

DRC Emergency Services



Printed Name: ~~John Sullivan~~ Kristy Fuentes
Title: ~~President~~ Vice President, Secretary & Treasurer

EXHIBIT A

SECTION 6 - SCOPE OF SERVICES

1. SCOPE OF CONTRACTED SERVICES

Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver disaster response services as requested by the City of Marathon including but not limited to the timely removal and lawful disposal of all eligible storm-generated debris.

These contracted services shall include all items listed below and provide for the cost effective and efficient removal and lawful collection and disposal of debris on all public streets, roads, and other rights-of-way, including any other locally-owned facility or site as may be directed by the City of Marathon, and in accordance with FEMA requirements. Contract services will only be performed when requested and as designated by the City of Marathon Manager, by approved Work Authorization issued in writing. Contractor shall load and haul the debris from within the legal boundaries of the City of Marathon to a site(s) specified by the City of Marathon as set out in Section 4.8 below.

The City of Marathon reserves the right to assign work to various contractors, at its sole discretion. The City of Marathon also reserves the right to approve all subcontractors hired by the contractor and/or to require the contractor to dismiss a subcontractor for cause, upon request. Upon issuance of the Notice To Proceed, the Contractor shall within five (5) days submit a list of all subcontractors to be used on the project. Any subcontractors to be used on the project after commencement shall be submitted to the city for approval prior to the said subcontractor performing any work.

1.1 Emergency Push/Road Clearance:

Contractor shall accomplish the cutting, tossing and/or pushing of debris, hanging limbs, or leaning trees off of transportation routes as identified by and directed by the City of Marathon. The emergency push will normally be completed within the first 70 hours following the activation of this contract, unless notified otherwise by the City of Marathon. Time and material rate shall be applicable. The contractor shall provide necessary equipment to the City as requested prior to the event and have them on standby and available immediately after the event. The City, at its sole discretion, may assign this work to another contractor and as such, is under no obligation to the contractor for this portion of the work.

1.2 Debris Removal from Public Right-of-Way (ROW):

1.2.1 As directed by the City of Marathon, Contractor shall load and haul all eligible debris to an approved and certified Temporary Debris Management Site (TDMS)

or other disposal destination, as specified by and provided by the City of Marathon. All collection and hauling will be consistent with Federal requirements applicable to the disaster event. The Contractor will ensure compliance with instructions from the City of Marathon regarding the collection, hauling and disposal of hazardous waste and/or other categories of debris.

1.2.2 The contractor shall remove all debris piles by type of material, and continue on the same street until all debris is pick-up for that particular pass. Contractor shall not "cherry pick" the piles for convenience. All effort shall be made to leave the area clean of debris.

1.3 Debris Clearance/Removal from Public Property:

As directed by the City of Marathon, Contractor shall clear eligible debris from public property, load and haul all debris to a designated temporary debris management site (TDMS) or other disposal destination designated by the City of Marathon. If necessary, the City of Marathon will confirm the FEMA eligibility of the debris to be removed.

1.4 Demolition of Structures and Construction Debris Removal:

As directed by the City of Marathon, Contractor shall demolish unsafe structures and remove debris that has been determined by the City of Marathon to be a threat to the health and safety of the public. Contractor will exercise due diligence in demolishing and/or removing debris from private property. The City of Marathon will direct actions to secure the Right of Entry (ROE) onto private property to allow demolition and removal. Contractor will ensure hazardous materials screening and utilities disconnection as appropriate. All applicable local, state and federal regulatory requirements regarding asbestos containing materials shall be adhered to unless waived by applicable regulatory authorities.

1.5 Private Property Waivers:

The City of Marathon will direct all actions to secure necessary permissions, waivers and ROE agreements from real property owners and/or Homeowner Associations (HOA) as required for the lawful removal of debris and/or demolition of structures from real properties. All such actions will be consistent with Federal requirements applicable to the disaster event.

1.6 Debris Separation/Reduction and Temporary Debris Management Site (TDMS) Management:

Contractor shall be solely responsible to operate and manage the TDMS to accept and process all event debris. All actions will be implemented by the Contractor

only with the prior approval of the City of Marathon. Actions by the Contractor will include, but are not limited to, the following:

- 1.6.1 Ensure that only debris authorized by the City of Marathon's Contract Administrator will be allowed into the TDMS sites.
- 1.6.2 Provide to the City of Marathon a video record of the pre- and post-use site conditions.
- 1.6.3 Conduct an onsite Phase 1 Environmental Audit, if required by the City of Marathon. Contractor shall submit list of engineering firms that shall be engaged by Contractor to perform such Audit.
- 1.6.4 Prior to any debris transported to the TDMS, the Contractor shall secure said property by fencing, cable, or any other acceptable means necessary to prevent any unauthorized or dumping at the sites.
- 1.6.5 Prior to use of the property, the contractor shall install silt fencing around the perimeter of the site. The silt fence shall be inspected and accepted by the City before any debris is transported to the site.
- 1.6.6 Prepare a plan of proposed site layout and review with the City of Marathon prior to its implementation. The plan shall include, but not be limited to, designated areas for the different debris types, internal access, fire protection, and sanitary facilities.
- 1.6.7 Prepare a plan for site security and traffic control for both on the site and adjacent roadways and review with the City of Marathon prior to its implementation.
- 1.6.8 Provide adequate fire prevention/fighting equipment, including water truck and hoses, on site throughout the operational period of the TDMS.
- 1.6.9 Build and/or maintain roads as necessary for TDMS operation.
- 1.6.10 Provide and/or construct and maintain stabilized roofed inspection towers sufficient for a minimum of three inspectors; Towers will be positioned at any entrance and any exit of the TDMS.
- 1.6.11 Comply with any applicable local, state, and federal environmental requirements governing debris sites, to include, but not limited to, litter control fencing, silt fencing, dust control, hazardous materials containment area, and/or water retention berms. It is the contractors responsibility to keep up to date version of all said regulations.
- 1.6.12 Confine hours of operation of the TDMS to those determined by the City of Marathon.
- 1.6.13 Stage and process all debris in accordance with instructions from the City of Marathon, and consistent with FEMA requirements.
- 1.6.14 Contractor shall be responsible to keep debris segregated at the TDMS. No additional payment shall be made to debris segregation as a result of mismanagement of the site by the contractor.
- 1.6.14 Process and reduce debris by methods that may include, but not be limited to, reduction by grinding, chipping, air curtain incineration when approved, or other alternate methods of reduction, such as compaction.

- 1.6.15 Prior to reduction and to the extent practical, segregate debris between vegetative debris, construction and demolition debris, white goods, and hazardous waste.
- 1.6.16 Develop and implement, with the approval of the City of Marathon, a procedure for management of the receipt of unauthorized and/or ineligible debris at the TDMS.
- 1.6.17 Provide the City of Marathon with proper and acceptable documentation (including destination, tickets, volume/weight) for final disposal of debris accepted at the TDMS.
- 1.6.18 Upon the closure of the TDMS, restore the TDMS to its pre-use condition, meeting all regulatory requirements for the site closure, inclusive of required soil testing; Survey the site to verify that it has been restored to pre-use elevation and condition.
- 1.6.19 As directed by the City of Marathon, sod, hydro-seed or sprig the TDMS cleared by the appropriate environmental agency.
- 1.6.20 As directed by the City of Marathon conduct post use soil and water tests.
- 1.6.21 Provide a tent, chairs, and portable toilet for staff to use while monitoring and working at the site.
- 1.6.21 Any violations or corrective issues required by the City or any agency exerting jurisdiction over the TDMS shall be immediately corrected by the contractor. The contractor shall be responsible for any fines or actions required as a result of non-conformance in the performance of the management of the TDMS.

1.7 Designation and Management of Staging Areas:

City of Marathon shall provide list of staging areas to Contractor. Contractor shall identify appropriate staging areas for approval by City of Marathon that would accommodate activities such as truck/equipment certification, provision of temporary fueling or vehicle maintenance (as required), and other operational service functions related to debris removal efforts. Contractor shall provide temporary tent, sanitary and other appropriate conveniences necessary for the care and well-being of all Contractor and sub-contractor personnel. The City of Marathon will approve of the location, size, layout and services to be provided at any staging area established by the Contractor, who will insure that each area is managed in accord with all applicable regulatory requirements and in a manner to minimize disruption to the surrounding neighborhoods.

1.8 Management of Tree Debris:

Tree debris is herein defined as vegetation, stumps, hanging limbs, leaning trees, and similar materials resulting from trees damaged during the event. The City of Marathon shall direct the Contractor regarding removal, collection, hauling and disposal of eligible tree debris, which will adhere to the most current FEMA

Guidance Policy Disaster Specific Guidelines. Stumps within the public rights-of-way deemed by the City of Marathon to be public safety hazards will be removed and disposed of by the Contractor. The Contractor is responsible for collection, hauling and disposal of all tree debris on the cost basis of the cubic yard rate for regular vegetative debris.

1.9 Disaster Recovery Technical Assistance:

The Contractor will provide Disaster Recovery Technical Assistance to the City of Marathon to assist with guidance and consultation on all aspects of the recovery process. This assistance shall include documentation and management for the public assistance program, planning, training and exercise development, as well as attendance at the City of Marathon's Emergency Operations Center (EOC) during activations of the EOC for exercise and actual emergency events as requested by the City of Marathon Representative.

1.10 Post Event Support Equipment:

The Contract will supply, as may be requested by the City, with post event equipment including but not limited to mobile satellite communication gear, mobile high speed internet access, mobile radio communication gear, mobile fueling gear, mobile kitchen, mobile laundry facility.

1.11 Beach Cleaning:

In the event that the City's beaches have been damaged, the Contractor shall provide all necessary equipment, and manpower, as directed by the City, to remove debris, screen sand, and place the screened sand on the beach. All debris generated from the screening operation shall be removed from the beaches and paid as a unit cost for debris removal as stated in Table B of Attachment A

2. **PERFORMANCE OF SERVICES**

2.1 Description of Service:

The Contractor agrees to perform contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations, and permits. Only the highest quality workmanship will be acceptable. Services, equipment and workmanship not conforming to the intent of the Contract or meeting the approval of the City of Marathon may be rejected. Replacements and/or re-work, as required, will be accomplished on a timely basis at no additional cost to the City of Marathon.

2.2 BID FORM - Cost of Services:

The Contractor shall submit Attachment A providing a Bid on the Bid Form in these Bidding Documents. The Contractor shall bear all of its own operating costs and is responsible for all permit and license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish contracted services. Upon execution of the Contract, payments will be made based on a unit price basis as specified in the Sample Contract in the Bidding Documents.

Unknown and/or unforeseen events or conditions may require an additional line item to the costs given in Attachment "A" or "B", of the Bidding Documents. Any amendments, extensions or changes to the scope of contracted services are subject to full negotiations between the Contractor and the City of Marathon and approval by formal action as deemed necessary by the City of Marathon.

In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the most current version of the FEMA Schedule of Equipment Rates, to be applied at all times for implementation of the Contract.

3. **STANDARDS OF PERFORMANCE**

3.1 Contractor Representative and General Operations Plan:

The Contractor shall have a knowledgeable and responsible representative report to the City of Marathon and provide a copy of final Contractor's General Operations Plan within ten (10) days following the execution of the Contract. The City of Marathon will approve the General Operations Plan prior to its implementation within the City of Marathon. The Contractor's Representative shall have the authority to implement all actions required to begin the performance of contracted services as set forth in the Contract and the Contractor's General Operations Plan.

3.2 Mobilization:

When a notice to proceed in advance of an event has been received by the Contractor, he/she will make all necessary arrangements to mobilize a minimum of 50% of the required resources within 48 hours and 100% of the required resources within 96 hours to commence and conduct these contracted services. It shall be the City's discretion to require pre-event staging at a location designated by the City. The City of Marathon may take such other actions as necessary to address the failure of the Contractor to mobilize resources on the schedule required by the City of Marathon.

4. **GENERAL RESPONSIBILITIES**

4.1 Other Agreements:

The City of Marathon may be required to enter into agreements with Federal and/or State agencies for disaster relief. The Contractor shall be bound by the terms and conditions of such agreements, regardless of the additional burdens of compliance. City of Marathon will provide the Contractor with a copy of any applicable agreements.

4.2 The City of Marathon's Obligations:

The City of Marathon shall furnish all information and documents necessary for the commencement of contracted services, including a written Notice To Proceed.

4.3 Contractor's Conduct of Work:

The Contractor shall be responsible for planning and conducting all operations in a satisfactory and professional manner. All Contractor personnel and subcontractors shall demonstrate and maintain a courteous and responsible demeanor toward all persons. The City shall have the right to remove any of the Contractor's personnel or subcontractor, that at its sole discretion is deemed to violate this clause.

4.4 Supervision by Contractor:

The Contractor will supervise and/or direct all contracted services performed by its employees, agents and subcontractors. The Contractor is solely responsible for all means, methods, techniques, safety and other procedures. The Contractor will employ and maintain a qualified Contractor's Representative as project manager at the work site(s) who shall have full authority to act on behalf of the Contractor. All communications given to the Contractor's Representative by the City of Marathon shall be as binding as if given to the Contractor.

4.5 Self-sufficiency of Contractor and Subcontractors:

The Contractor shall ensure that its work force, including subcontractors, maintain self-sufficiency related to fuel, vehicle repair/maintenance, housing, sanitation food and related accommodations, in a manner that is consistent with local requirements and minimizing adverse effects on the community, and at no additional cost to the City.

4.6 Damages by Contractor:

The Contractor shall be responsible for conducting all operations, whether contemplated by the Contract or later requested as specialized services, in such a

manner as to cause the minimum damage possible to existing public, private and commercial property and/or infrastructure. The Contractor shall also be responsible for any damages resulting from its employees and subcontractors operations. The Contractor must report such damage to the City of Marathon in writing within 24 hours. Should any property be damaged as a result of the Contractor's operation, the City of Marathon may either bill the Contractor for the damages, withhold funds due to the Contractor, or the Contractor may also repair all damage to the satisfaction of the City of Marathon.

4.7 Contractor's Duty Regarding Other Contractor(s):

The Contractor acknowledges the presence of other contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work, and cooperate with any other entity as directed by the City.

4.8 Contractor's Ownership of Debris:

All debris, once collected by the Contractor, shall become the property of the Contractor or the City of Marathon may exercise ownership of flow control for removal and lawful disposal. The debris may consist of, but not be limited to, vegetation, construction and demolition debris, white goods and collected hazardous materials.

4.9 Contractor's Disposal of Debris:

Unless otherwise directed by the City of Marathon, the Contractor shall be responsible for determining and executing the method and manner for processing and/or lawful disposal of all eligible debris as approved by the City of Marathon. The locations of the TDMS shall be approved by the City of Marathon. Final disposal sites shall be provided to the City of Marathon in writing. Copies of receipts and disposal tickets shall be provided to the City of Marathon, or its monitoring contractor, when complete. Separate unit prices for delivery and disposal of debris to final disposal may be allowed by the City of Marathon. Upon request from the Contractor, other sites may be utilized as directed and/or approved by the City of Marathon. All sites shall be permitted and/or otherwise authorized by the appropriate regulatory agency.

5. **GENERAL TERMS AND CONDITIONS**

5.1 Multiple, Scheduled Passes:

The Contractor shall make scheduled passes and/or unscheduled passes of each area impacted by the event, at the direction of the City of Marathon. The City of Marathon shall direct the interval timing of all passes. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the City of Marathon. The Contractor will document the completion of all passes based on the direction from the City of Marathon and will provide this documentation to the City of Marathon on the frequency requested by the City of Marathon.

5.2 Clean as you go Policy:

The Contractor shall provide a “clean as you go” policy and supervise and enforce such policy during debris management operations.

5.3 Operation of Equipment:

The Contractor shall operate all trucks, trailers and all other equipment in compliance with any/all applicable federal, state and local rules and regulations. All equipment shall be in good working condition. All loading equipment shall be operated from the road, street, or ROW using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed outside of the public ROW unless otherwise directed by the City of Marathon. Should operation of equipment be required outside of the public ROW, the Contractor will ensure that a ROE agreement has been obtained prior to property entry.

5.4 Security of Debris During Hauling:

The Contractor shall be responsible for the security of debris on/in each vehicle or piece of equipment utilized to haul debris. Prior to leaving the loading sites, Contractor shall ensure that each load is secure and trimmed so that to the extent practical no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted and secured during transport in accordance with FOOT guidelines. As required, Contractor will survey the primary routes used by Contractor for debris hauling as soon as possible after the transport and will recover fallen or blown debris from the roadway(s).

5.5 Traffic Control:

Contractor shall mitigate impact on local traffic conditions to the greatest extent possible. Contractor is responsible for establishing and maintaining appropriate traffic control in accordance with the most current edition of the US Department of Transportation Manual or Uniform Traffic Control Devices (MUTCD). Contractor shall provide sufficient signage, flagging and barricading to ensure the

safety of vehicular and pedestrian traffic at all debris removal, collection, reduction and/or disposal sites.

5.6 Work Days/Hours:

Work days and/or work hours shall be as directed by the City of Marathon following consultation and notification to Contractor. Working hours and work on holidays shall be at the discretion of the City of Marathon.

5.7 Hazardous and Industrial Wastes:

Upon the pre-authorization of the City of Marathon, the Contractor shall set aside and reasonably protect all hazardous or industrial material encountered during debris removal operations for collection and disposal. Prior to such actions, the Contractor will prepare a Hazardous and Industrial Materials Cleanup and Disposal Plan, and this plan will be in accordance with all local, state and Federal requirements and will be approved by the City of Marathon. In accord with this plan, the Contractor shall use the subcontracting services of a firm specializing in the management and disposal of such materials and waste, if and when directed to do so by the City of Marathon.

5.8 Work Safety:

Contractor shall provide and enforce a safe work environment as prescribed in the Occupational Safety and Health Act of 1970, as amended. Contractor will provide such safety equipment, training and supervision as may be required by the City of Marathon and/or other governmental regulations. Contractor shall ensure that its subcontracts contain an equivalent safety provision.

5.9 Inspection of Contractor Operations:

All debris shall be subject to inspection by the City of Marathon, or it's designee, and other public authorities to ensure compliance with the Contract, applicable federal, state and local laws, and in accordance with generally accepted standards of emergency management professionals. The City of Marathon will, at all times, have access to all work sites and disposal areas. In addition, authorized representatives and agents of the government shall be permitted to inspect all work, materials, invoices, and other relevant records and documentation.

5.10 Corrective Actions Required of Contractor

When instructed by the City of Marathon's Representative, the Contractor will immediately implement corrective actions to address health and safety issues and/or any other actions inconsistent with any of the terms of the Contract, as determined by the City of Marathon in its sole discretion and notify the City of Marathon within 24 hours.

5.11 Ineligible Work:

The Contractor will not be paid for the removal, transportation, storage, reduction and/or disposal of any material when not previously instructed by the City of Marathon that such actions are eligible for state and/or Federal reimbursement.

5.11.1 Eligibility Inspections:

A representative for the City of Marathon shall inspect each load, or shall inspect at some other frequency of the City of Marathon's direction, to verify that the contents are in accordance with the accepted definition of eligible debris.

5.11.2 Eligibility Determinations:

If any load is determined to contain material that does not conform to the definition of eligible debris, the load will be ordered to be deposited at another approved and certified receiving facility. No payment will be allowed for that load and the Contractor will not invoice the City of Marathon for such loads. The City of Marathon, through its authorized representative, will be the sole judge as to whether the material conforms to the definition of eligible debris.

5.12 Other Agencies:

The term "government" as used in the Contract refers to those governmental agencies which may have a regulatory or funding interest in the Contract.

5.13 **TERMINATION FOR CONVENIENCE AND CAUSE:** This Contract may be terminated by the CITY upon thirty (30) days advance written notice to the CONTRACTOR at the primary business address as designated on the signature page herein; however, if any work or service hereunder is in progress but not completed as of the date of termination, then this Contract may be extended upon written approval from the CITY until said work or services are completed and accepted by the CITY. In the event this Contract is terminated or cancelled upon the request and for the convenience of the CITY with such thirty (30) day advance written notice, the CITY shall reimburse the CONTRACTOR for actual work satisfactorily completed. In the event of a material breach, default, or negligence on the part of the CONTRACTOR, or any other articulable cause, the CITY reserves the right to terminate the Contract by issuing a written notice to the CONTRACTOR which shall take effect immediately or at a time directed by the CITY. At the CITY's discretion, a cure period may or may not be afforded CONTRACTOR. Any termination costs, including demobilization of equipment and personnel, shall be incurred and paid by the CONTRACTOR. In such case, the CONTRACTOR shall not be entitled to receive further payment for services rendered from the effective date of the Notice of Termination.

- 5.14 **MINIMUM LEVEL OF SERVICE:** The Contractor shall provide the City multiple estimated minimum levels of service commitments at the time of a “declared emergency” by the City. These multiple commitments shall include, but shall not be limited to, mobilization schedules, estimated number of calendar days for completion and resource designations. The multiple commitments shall also be commensurate with the required minimum level of service for varying degrees of severity of the event. The determination as to which minimum level of service commitment is implemented shall be the responsibility of the City. This shall be based on the actual severity and impact of the event.
- 5.15 **PERFORMANCE REMEDY NOTIFICATION:** Failure of the Contractor to meet the minimum level of service commitments, once debris management services commence, shall result in the issuance of a Performance Remedy Notification from the City to the Contractor. Once this date and time stamped notification is issued, the Contractor shall have a twenty-four (24) hour period in which to respond (in writing) and take corrective action. Failure to do so may result in the assessment of liquidated damages against the Contractor or its Surety.
- 5.16 **LIQUIDATED DAMAGES:** Parties agree that damages are difficult to determine but the following liquidated damages are agreed to be a reasonable cost for any delays: If the Contractor shall neglect, fail or refuse to START the Work within the specified time in this agreement, or any proper extension thereof granted by the City, then the Contractor hereby agrees, as part consideration for awarding the Agreement, that the City reserves the right to assess damages in the event that the Contractor response is not timely in accordance with the terms of this Agreement and the Contractor agrees to pay the City said sum for each and every calendar day that the Contractor shall be in default after the time stipulated in the Agreement for STARTING the Work. The Contractor and City acknowledge and agree that said sum is not a penalty but liquidated damages for breach of contract. The City and Contractor agree that the damages that will be incurred by the City as a result of Contractor's delay in meeting a START date are of a kind difficult to accurately estimate, and the Contractor further agrees that the said sum amount is reasonable of the damages that will actually be incurred by the City in the event of any such delay and not a penalty.
- 5.17 **REMEDIES:** Any Agreement or Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the agreement shall be in a State Court of competent jurisdiction located in Monroe County. With the exception of the choice of law and venue provisions contained herein, no remedy conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

5:18 PUBLIC RECORDS: Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (5) Keep and maintain public records required by the City to perform the service.
- (6) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (7) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.
- (8) Upon completion of this Agreement, transfer, at no cost, to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon the completion of this agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 305-743-0033, cityofmarathon@ci.marathon.fl.us, OR BY MAIL AT 9805 OVERSEAS HIGHWAY, MARATHON, FLORIDA 33050

5:19 ACCESS TO RECORDS: The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide the City, 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.
- (2) 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.
- (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract

6. **REPORTS, CERTIFICATIONS AND DOCUMENTATION**

6.1 Reports:

The Contractor shall submit periodic, written reports in a format required by the City of Marathon documenting the progress of debris removal and disposal. These reports may include, but are not limited to:

6.1.1 Daily Reports:

Daily reports may detail the locations where passes for debris removal were conducted, the quantity of debris (by type) removed and disposed of, the total number of personnel crews engaged in debris management operations, and the number of grinders, chippers and mulching machines in operation. Contractor will also report damages to private property caused by the debris operation or damage claims made by citizens and such other information as may be required to completely describe the daily conduct of Contractor's operations within 24 hours.

6.1.2 Weekly Summaries:

A summary of all information contained in the daily reports as described in Section 6.1.1, within two days of the close of the week. At the request of the City of Marathon, the data making up the weekly summaries shall also be submitted in electronic format, utilizing Microsoft Excel or Access. The submitted electronic weekly data will include: Collection contractor or sub-contractor, load ticket number, load date, load location, truck yardage, percent full, calculated yardage (or weight if applicable) field monitor name I number, TDMS location, tower monitor I name, debris materials categorization, and location of collection, e.g., ROW, FHWA, Canal, etc.

6.1.3 Report Delivery:

The scheduling, point of delivery and receiving personnel for the debris operations report will be directed by the City of Marathon, in consultation with the Contractor.

6.1.4 Data Reconciliation

Reconciliation of data will be accomplished weekly between the Contractor and the City of Marathon's Representative. All discrepancies will be resolved within 5 days.

6.15 Data Storage/Access

Throughout the debris removal operations, Contractor shall maintain an ongoing updated database to be made available to the City within 24 hours upon request,

that stores data and true document images, separated by incident, of the following: equipment certification, load tickets, tipping tickets and invoices. These data bases will remain available for five years after the project close-out0 /3..i **Public Works & Engineering:**

1. Prior to any construction activities on the site, silt fence shall be properly installed along the perimeter of the property.

2. All disturbed areas on site shall be stabilized with gravel or sod prior to final acceptance of the project.

3. Contractor shall provide a soil tracking method for construction traffic to eliminate dirt, silt and debris from entering the public R/W.

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6.1.5 Final Project Closeout:

Upon final inspection and/or closeout of the project by the City of Marathon, Contractor shall prepare and submit a detailed description of all debris management activities in an electronic spreadsheet, to include, but not limited to the total volume, by type of debris hauled, reduced and/or disposed of, final disposal locations and amounts of the debris managed by the Contractor, plus the total cost of the project invoiced to the City of Marathon. The Contractor shall provide, upon request of the City of Marathon and/or no later than project closeout, a release of liens demonstrating that all subcontractors to the Contractor have been fully paid. The Contractor will provide any other additional information as may be necessary to adequately document the conduct of the debris management operations for the City of Marathon and/or government. Final project reconciliation must be approved by the City of Marathon.

6.2 Certifications

The Contractor will adhere to the process for certification of personnel and vehicles established by the Federal Emergency Management Agency, to include the following:

6.2.1 Certification of Vehicles and Load Capacity

- a. Contractor shall ensure that all equipment is certified in accordance with most current federal procedures.
- b. After a disaster, the City of Marathon, or its designated representative, will begin the equipment certification at a pre-designated site, or at staging areas established by the City of Marathon.
- c. All Contractor and subcontractor trucks shall have valid registrations, insurance and meet basic operational criteria: tailgates or equivalent containment devices, tarps, etc., as well as

- all applicable motor vehicle safety requirements. Drivers shall possess valid licenses.
- d. Truck body dimensions shall be measured, and information recorded on certification forms with calculated capacity noted. Each truck will receive two placards, which shall be affixed on opposite sides of the truck body. The placards will be at least 42" x 24" with 6" lettering. The truck driver will be provided up to two (2) copies of a vehicle certification sheet by the Contractor and also provide copies for sub-contractor's records.
 - e. Contractor may be required to provide a scale capable of weighing large trucks and equipment.

6.2.2 Certification of Personnel

The Contractor will certify to the City of Marathon that all Contractor and subcontractor personnel have received required and adequate training in relevant emergency response, disaster recovery, and debris management operations. Upon request of the City of Marathon, the Contractor will provide documentation certifying the adequacy of the training, experience and capabilities of all Contractor and subcontractor personnel, to include but not be limited to the following:

- 6.2.2.1 Senior management personnel of the Contractor assigned to implement work authorizations pursuant to the Contract will participate, upon request, in training and briefing sessions held by representatives of Monroe County and/or the City of Marathon.
- 6.2.2.2 Senior, supervisory personnel of the Contractor and all subcontractors thereto will have received training in debris management, the operational concepts established by the Monroe County Countywide Debris Management Plan, and the implementation of the National Incident Management System.
- 6.2.2.3 Personnel assigned by the Contractor as responsible for data management, invoicing and other documentation duties will be trained in the data management concepts and approaches to be used by the City of Marathon.
- 6.2.2.4 Vehicle and equipment operators will be fully licensed and certified, as required by applicable local, State and Federal statutes and regulations.
- 6.2.2.5 Upon their deployment for field operations, all Contractor and subcontractor personnel will be briefed or trained appropriately in their duties, responsibilities, and the procedures to be utilized throughout the debris management process, including safety

procedures, load ticket management procedures, and accident reporting procedures

6.3 Utilization of a Standardized “load ticket”:

The Contractor and all subcontractors will utilize a standardized “load ticket” for documenting each load of debris from its origin to the TDMS and/or final disposal location. The “load ticket” utilized will be identical to the sample provided by the Contractor in Attachment B.

6.4 Additional Supporting Documentation:

Contractor shall submit sufficient reports and/or documentation for debris loading, hauling, disposal, and load capacity measurements, any other services provided by Contractor as may be required by the City of Marathon and/or other governmental entity to support requests for debris project reimbursement from external funding sources.

6.5 Report Maintenance:

The Contractor will be subject to audit by federal, state and local agencies pursuant to the Contract. The Contractor will maintain all reports, records, debris reporting tickets and Contract correspondence for a period of not less than three (3) years.

7. DESCRIPTIONS

7.0 Description of Unit Price Bid items:

Table A - Unit Prices: The Contractor will provide all services and expenses necessary for the emergency push, and additional service as requested requiring manpower or equipment as requested by the City with the exception of debris hauling, TDMS management, debris reduction, and final haul-out for a fixed unit price as a cost per hour. The City reserves the right to contract this portion of the work to other contractors at the sole discretion of the City.

Table B - The Contractor will provide all services and expenses necessary for the, debris pickup and hauling, white goods collection and processing, processing of debris at the TDMS, debris reduction, and final disposal for a fixed unit price as a cost per cubic yard, for the debris types noted below, but excluding debris designated as hazardous wastes. This cost is inclusive of all related expenses including but not limited to, contract administration, technical assistance to the jurisdiction, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary, and any other cost associated with the operation for implementation of debris management operations by the Contractor as defined in the Contract.

1. Leaners, hangers, and stumps (\$\$/item)
2. Vegetative debris (\$\$/cubic yard)
3. Construction & Demolition (\$\$/cubic yard)
4. White Goods (\$\$/Item)
5. Haul-out to final destination (\$\$/cubic yard)
6. All other inclusive items as noted in Table B

7.1 Cleaning and Restoration of Beaches:

The Contractor will remove and dispose of debris accumulated on the beaches located within the City of Marathon by written request, and will collect, screen for debris removal, and re-deposit sand on the beach that has accumulated in adjacent areas up to 2,000 feet from the original land edge of the beach. Locations will be designated by the City of Marathon's authorized representative. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.2 Debris Removal and Restoration of Canals:

The Contractor will remove debris resulting from the event that impedes the drainage and navigation of canals and adjacent banks, as directed by the City of Marathon. Debris to be removed will be vegetative and/or construction and demolition debris affecting the canals, but excludes removal of damaged and/or

abandoned boats. The Contractor will also haul, process and dispose of the collected debris at the rate established in Attachment A.

7.2.1 The Contractor will restore, re-grade, and/or reseed the canal banks and slopes, as directed by the City of Marathon. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.3 Motor Vehicles:

The Contractor will remove motor vehicles damaged by the disaster event and/or abandoned by the owner due to the circumstances of the event. The City of Marathon will identify the area(s) from which motor vehicles are to be removed. Motor vehicles will be processed by or for the Contractor in a manner that complies with all requirements for removal and processing of hazardous materials, e.g., gasoline, oils and other fluids. The Contractor will also ensure the proper final disposal of the removed vehicle. The Contractor will be reimbursed at a the rate, as established in Attachment A inclusive of all towing, processing and disposal costs.

7.4 Boats:

Boats severely damaged by the disaster event, and abandoned in or on the canals, marinas, and beaches of the City of Marathon will be collected by the Contractor, processed for removal and disposal of hazardous materials in accord with applicable regulations, demolished and transported to a suitable location for final disposal. The City of Marathon will determine the vessels to be removed, will establish that they have been legally abandoned by their owners, and will take other necessary steps as required by law before directing the Contractor to remove and dispose of the vessel. The Contractor is otherwise responsible for compliance with all regulations and requirements applicable to the removal and disposal process. The Contractor will be reimbursed at the rate for this service as established in Attachment A..

7.5 Hazardous Waste and Contaminated Debris Management:

The Contractor will identify, separate, collect, transport and dispose of disaster-generated debris determined to be hazardous and/or contaminated, thereby requiring that it be separately managed from other debris. The Contractor will provide trained, experienced and equipped personnel to identify hazardous waste and contaminated debris at its point of origin, as well as to direct the Contractor personnel in the safe and proper handling and disposal of the material. All hazardous waste and contaminated debris will be collected, transported and disposed of by the Contractor as required by local, state and Federal regulations. The Contractor will be reimbursed at the rate for this service as established in Attachment A

7.6 Fire Suppression Support:

In the event of water system failure in the City of Marathon, the Contractor will provide filled water trucks of a minimum capacity of 1500 gallons, and equipped with outlet valves compatible with fire hose connections meeting national standards of the National Fire Protection Association, or as otherwise specified by the City of Marathon. The City of Marathon will direct the Contractor regarding the location(s) for the truck(s) to be positioned, and the City of Marathon will provide a fully qualified and licensed driver. If the initial water supply is used, the City of Marathon will be responsible for refilling the truck. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.7 Emergency Potable Water:

The Contractor will provide the City of Marathon with whole pallets of individually bottled water drinking water. The City of Marathon will instruct the Contractor as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The Contractor will be reimbursed at a fixed rate for this service.

7.8 Emergency Delivery of Ice:

The Contractor will provide the City of Marathon with whole pallets of cubed ice made from potable water in individually packaged sacks of between 5 and 10 pounds. The City of Marathon will instruct the Contractor as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.9 Temporary Bathrooms, Showers, Kitchens and Feeding Stations:

The Contractor will provide the City of Marathon with “comfort stations,” e.g., modular units to provide for the comfort and support of disaster victims within or near impacted neighborhoods. The modular units will include tents, portable toilets, hand basins, shower units, a mobile kitchen, chairs and tables for food service, and all necessary personnel, food, equipment and supplies to operate the units for extended periods. Each comfort station must include equipment compliant with the Americans with Disabilities Act. The unit must be capable of serving three meals per day. The City of Marathon will provide law enforcement and emergency medical services staff to compliment the work force provided by the Contractor. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.10 Temporary Satellite Communications:

The Contractor will provide satellite communications units capable of voice, text messaging, data transfer and Internet access for use by City of Marathon personnel in the event of failure of other communications systems. The units will be rented/leased to the City of Marathon and will be fully equipped, including AC/DC adapters (including automotive battery chargers), instructions and carrying cases. The units will be fully operational upon delivery to the City of Marathon, without further action by the City of Marathon. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.11 Emergency Power Generation:

The Contractor will provide mobile electric power generation units for facilities and locations located within the City of Marathon. The City of Marathon will define the size and fuel type of the mobile units, which will be leased to the City of Marathon. The City of Marathon will require up to ((specify number of separate units)) of ((specify 120 and/or 240 volt)) units, ranging in capacity from ((specify range of KW needed)), and the Contractor will deliver the units to the facilities or locations designated by the City of Marathon, and ensure connection of the unit to the existing electrical wiring by a licensed electrician. The Contractor will also ensure the unit is fueled, tested, and demonstrated to be operational prior to departure from the location. The Contractor will also provide fuel for the duration of the units use by the City of Marathon, and will have readily available technical support and repair or replacement services. The Contractor will be reimbursed at the rate for this service as established in Attachment A .

7.12 Intentionally Left Blank

7.13 Sewer, Culvert and Catch Basin Cleaning:

The Contractor will provide all personnel, vehicles, equipment and supplies to clean disaster-related debris, including sand and mud, from storm sewers, culverts, catch basins and draining canals. The City of Marathon will designate the storm water systems to be cleaned. This service will be provided on a per structure basis at the rate as established in Attachment A.

7.13.1 The disposal fee shall also be provided by the ton and Contractor should identify potential locations for disposal.

7.14 Decontamination of Buildings and Facilities:

The Contractor will provide for chemical and/or biological decontamination of buildings, facilities or other structures as directed by the City of Marathon. The Contractor is responsible for providing experienced, trained and equipped personnel, for all equipment and supplies, and for final disposal of all

contaminated materials removed from the structure. All operations by the Contractor must be in full compliance with all health and safety standards, as well as environmental protection requirements applicable to the decontamination and disposal process. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

7.15 Mold Remediation:

The Contractor will provide all personnel, equipment, supplies and services necessary for the planning of mold remediation services, removal and disposal of mold contaminated materials, and other mold remediation measures necessary for affected public buildings belonging to the City of Marathon. The Contractor will comply with all Federal guidelines on mold remediation, and ensure compliance with all applicable health, safety and environmental protection standards. The City of Marathon will designate which buildings or other structures are to be remediated, will approve the Contractor's mold remediation plan, and will designate the disposal facility to be utilized for mold-contaminated materials removed by the Contractor. The Contractor will be reimbursed at the rate for this service as established in Attachment A.

EXHIBIT B

TABLE A - Time and Materials – First Push

Heavy Equipment	Size or Type	U/M	Unit/Price
Skid Steer Loader	Bobcat S630 *	Hour	\$135.00
Backhoe	Cat 416 *	Hour	\$135.00
Wheel Loaders	Cat 950 *	Hour	\$135.00
Wheel Loaders	Cat 966 *	Hour	\$135.00
Wheel Loaders	Cat 980 *	Hour	\$135.00
Tracked Loader	Cat 955 *	Hour	\$155.00
Towed Loader w/Tractor	Prentice 210 *	Hour	\$175.00
Self Loading Knuckle boom Truck	23-35 CY Body	Hour	\$155.00
Self Loading Knuckle boom Truck	35-45 CY Body	Hour	\$155.00
Dozer	Cat D4 *	Hour	\$185.00
Dozer	Cat D5 *	Hour	\$185.00
Dozer	Cat D6 *	Hour	\$185.00
Dozer	Cat D7 *	Hour	\$185.00
Dozer	Cat D8 *	Hour	\$185.00
Excavators	Cat 320 *	Hour	\$145.00
Excavators	Cat 325 *	Hour	\$145.00
Excavators	Cat 330 *	Hour	\$145.00
Tractor w/Box Blade	80 Hp	Hour	\$85.00
Motor Grader	Cat 120G *	Hour	\$135.00
Crane	30 Ton	Hour	\$200.00
35.00Bucket Truck	Up to 50' reach	Hour	\$175.00
Bucket Truck	50' to 75' reach	Hour	\$175.00
Mechanized Boom	Street Sweeper	Hour	\$105.00
Water Truck	2000 Gallon	Hour	\$100.00
Stump Grinder	Vermeer 252 *	Hour	\$125.00
Chipper w/2 man crew	Morbark Storm *	Hour	\$205.00
12-Foot Tub Grinder	Vermeer 1200 *	Hour	\$350.00
13-Foot Tub Grinder	Vermeer 1300 *	Hour	\$350.00
14-Foot Tub Grinder	Diamond Z 1462 *	Hour	\$350.00
Equipment Transport w/Tractor	50 Ton	Hour	\$150.00
Truck Mounted Winch	Tow Truck	Hour	\$105.00

Haul Vehicles	Size or Type	U/M	Unit Price
Dump Truck	10 to 15 CY	Hour	\$95.00
Dump Truck	16 to 20 CY	Hour	\$95.00
Trailer Dump w/Tractor	30 to 40 CY	Hour	\$95.00
Trailer Dump w/Tractor	41 to 50 CY	Hour	\$95.00
Trailer Dump w/Tractor	51 to 60 CY	Hour	\$95.00
Trailer Dump w/Tractor	61 to 70 CY	Hour	\$95.00

Transportation Vehicles	Size or Type	U/M	Unit Price
Pickup Truck	1/2 Ton	Day	\$100.00
Pickup Truck	3/4Ton	Day	\$100.00
Pickup Truck	1Ton	Day	\$100.00
Box Truck	3/4 Ton	Day	\$100.00
Utility Van	3/4 Ton	Day	\$50.00
Passenger Van	9 Passenger	Day	\$50.00
Passenger Car	Full Size	Day	\$50.00

Personnel	Size or Type	U/M	Unit Price
Superintendent w/Pickup Truck	Individual	Hour	\$30.00
Supervisor w/Pickup Truck	Individual	Hour	\$30.00
Safety or QC Manager w/Pickup Truck	Individual	Hour	\$30.00
Mechanic w/Truck and Tools	Individual	Hour	\$75.00
Climber w/Gear	Individual	Hour	\$45.00
Operator w/Chainsaw	Individual	Hour	\$45.00
Laborer w/Tools	Individual	Hour	\$35.00
Traffic Control Personnel	Individual	Hour	\$35.00
Ticket Writers	Individual	Hour	\$25.00
Clerical	Individual	Hour	\$25.00
Administrative Assistant	Individual	Hour	\$25.00

* Or Comparable Equal

TABLE B - DEBRIS COLLECTION AND REDUCTION SERVICES

The Contractor will provide all services and expenses necessary for debris pickup and hauling, processing of debris at the TDMS, and final disposal for a fixed unit price as identified below. This cost is inclusive of all related expenses including contract administration, technical assistance to the City of Marathon, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary for implementation of disaster response services and operations by the Contractor as defined in the Contract.

DESCRIPTION OF SERVICES	UNIT OF MEASURE	Unit Price
Debris Removal		
Vegetative debris – Collection (including Seaweed)	Cu. Yd.	\$7.95
Construction and Demolition (excluding white goods)	Cu. Yd.	\$8.95
White Goods Collection	Each	\$25.00
White Goods Refrigerant removal	Each	\$45.00
White Goods Disposal	Each	\$1.00
Household Waste/Spoils	Lbs	\$4.50
E Waste	Each	\$18.00
DSM Site Management Processing and Loading	Cu. Yd.	\$1.75
Sand Screening and Placement	Cu. Yd.	\$17.25
Hazardous Waste/Contaminated Debris Management, collection and Disposal	Lbs	\$8.35
Reduction – Vegetative		
Grinding/Chipping	Cu. Yd.	\$3.25
Burning	Cu. Yd.	\$2.25
Reduction - C & D	Cu. Yd.	\$1.25
Haul Vegetative to Landfill < 200 miles	Cu. Yd.	\$12.00
Haul Vegetative to Landfill > 200 miles	Cu. Yd.	\$14.00
Haul Vegetative to Local Burner	Cu. Yd.	\$7.95
Haul C & D to City designated landfill	Cu. Yd.	\$8.95
Tree Debris Removal		
Hangers	Per Tree	\$95.00
Leaners 13” to 24”	Per Tree	\$135.00

25" to 48"	Per Tree	\$175.00
49" to 72"	Per Tree	\$175.00
> 72"	Per Tree	\$175.00
Stumps		
25" to 48"	Per Stump	\$175.00
49" to 72"	Per Stump	\$175.00
> 72"	Per Stump	\$175.00
Stump Backfill	Per Stump	\$.25
Demolition of Structures	Sq. Ft.	\$3.75
Resulting Structure Demolition debris removal	Cu. Yd.	\$11.00
Video Record of pre-and-post-TDMS site	Each	\$95.00
Phase I Environmental Audit	Each	\$500.00
TDMS site grading	Sq. Yd.	\$.05
Topsoil for TDMS site	Cu. Yd.	\$20.00
TDMS Sodding	Sq Yd	\$7.50
TDMS Seeding	Sq Yd	\$.75
Re-Deploy Sand on Beaches	Cu. Yd.	\$9.50
Debris removal from canals	CY YD.	\$120.00
Disposal of debris from canals	Cu. Yd.	\$22.50
Removal and Disposal of Vessel 0'-20'	EA	\$1,800.00
Removal and Disposal of Vessel 20' 30'	EA	\$2,600.00
Removal and Disposal of Vessel 30'45'	EA	\$3,400.00
Removal and Disposal of Vessel Over 45'	EA	\$5,000.00
Motor Vehicles Removal and disposal	EA	\$125.00
Haul out Reduced Marine Debris	Cu Yd	\$22.50
Restoration of Canal banks and Slopes	Sq Ft	\$38.50
Sodding of Canal Banks & Slopes	Sq Yd	\$55.50
Fill for Canal Restoration	Cu Yd	\$35.00
Emergency power generator		
>25KW	Each Unit/wk	\$2,805.00
>50KW	Each Unit/wk	\$3,300.00
>100KW	Each Unit/wk	\$3,960.00
>250KW	Each Unit/Wk	\$11,385.00
Portable Sanitary Facilities	EA/Wk/wk	\$425.00
Ice	Lb	\$.60
Potable Water	Gal	\$3.00
Temp Satellite Com.	Wkly	\$275.00
Temp Showers	EA/Wk	\$5,000.00
Sewer, culvert cleaning	LF	\$17.75

Sewer Catch Basin Cleaning	Each	Catch	\$450.00
	Basin		
Sewer, culvert or catch basin material Disposal Fee	Cu. Yd.		\$28.50
Decontamination of buildings and facilities	Sq. Ft.		\$15.00
Fire Suppression Trailers	EA		\$1,200.00
Mold Remediation	Sq Ft		\$25.00