

LEGAL NOTICE

Request for Proposal

The **Town of Brookfield** invites all interested parties to submit sealed proposals on the following

Proposal Due Date: May 31, 2018

Proposal Due Time: 3:00 PM

Proposal Item: Debris Removal Services – Emergency Basis.

Proposal Number: 2018 - 01

Certified small and minority business, and women's business enterprises that are qualified for such work are actively encouraged to respond.

Terms and conditions as well as the description of items being bid are stated in the specifications.

Specifications may be downloaded from the Town Web page at brookfieldct.gov from the Legal Notices / RFP's tab or from the State of CT. Bid Portal at <http://das.ct.gov> under Town of Brookfield or contact Jerry Gay at 203-775-7613 or e-mail at gayj@brookfieldps.org.

The return bid envelope must be marked and addressed to the following:

TOWN OF BROOKFIELD
PURCHASING AGENT, Room 203
BID NUMBER: 2018-01
100 POCONO ROAD
BROOKFIELD, CT. 06804

Sealed Proposals must be received no later than the date and time stated above at the Purchasing Agents office on the second floor where they will be publicly opened and read aloud.

TOWN OF BROOKFIELD CONNECTICUT

BOARD OF SELECTMAN

INSTRUCTIONS TO BIDDERS

The terms of Bidders/Proposers, Bids/Proposals, Projects and Specifications shall all be used generically and equally between Invitation to Bid (ITB), Requests for Proposals, Qualifications or Information, (RFP, RFQ, RFI). The Town of Brookfield shall be used generically and equally to include the Brookfield Public School District.

1. Submit proposals to the Purchasing Agent in a sealed envelope plainly marked with the bid number to identify this particular proposal no later than the date and time advertised. Faxed or e-mailed proposals can not be accepted.
2. Withdrawals of or amendments to proposals received later than the time and date specified for bid opening will not be considered.
3. The Board of Selectman of the Town of Brookfield reserves the right to accept or reject any or all options, bids or proposals; to waive any technicality in any bid or part thereof, and to accept any bid deemed to be in the best interest of the Town of Brookfield, Connecticut.
4. Bids shall be opened in public at the stated closing date and time. Bidders may be present at the opening of bids. All submitted materials and documents are subject to the CT FOIA laws with exceptions very limited as listed in the FOIA law and regulations. The Town of Brookfield shall comply fully with all lawful FOIA requests as per the FOIA requirements.
5. Bids may be held by the Town of Brookfield for a period not to exceed sixty (60) days from the opening of bids for the purpose of reviewing the bids and investigating the qualifications of bidders prior to the awarding of the contract.
6. All instructions, general conditions and detail specifications of this request for offers shall be incorporated by reference into any contract or agreement, simply upon notice of an award.
7. **Insurance requirements**, if any, should be submitted with the bid. This includes any Hold Harmless requirements as well as Certificates of Insurance, if required, for the full amounts specified.
Professional Liability insurance may be required for professional firms performing services.

Unauthorized changes to these forms, i.e. adding, striking out and/or changing any words, language or limits without prior authorization **may cause the bidder to be disqualified.**

Please Note : Certificates of Insurance, if required, **MUST** name the Town of Brookfield as “**Additional Insured**”. Failure to do so may mean disqualification from the Bid or Proposal.

8. **Prevailing Wage** : This work is NOT subject to the State of Connecticut’s Prevailing Wage rates.
9. **SBE/MBE Set Aside provisions** : This work is NOT subject to the State of CT. CHRO set aside program and contract provisions.
10. **DAS Prequalification** : This work does NOT require State of Connecticut DAS Contractor Prequalification.
11. **Permits** : It is the contractors responsibility to obtain all necessary permits prior to the start of work. All construction work shall adhere to the latest editions of the applicable State and Local standards as such shall apply for the work being performed.
12. **Sales Tax** : The Town of Brookfield is exempt from all State of Connecticut Sales and Use tax and a CT Certificate 134 will be issued and such tax shall not be included as part of the bid proposal.
13. **Emergency Work** : This provision shall be required for this work: The Contractor shall file with the Town Engineer an after hours telephone number of a person authorized with the firm who may be contacted regarding emergency work at the job site that may be required during non working hours for reasons of public safety or to protect property from further damage’s. The person shall be readily available and have full authority to deal with any emergency that may occur to mitigate further issues.
14. **Bonds** : A Payment and Performance Bond are required for this work as listed in the specifications and shall be supplied prior to the start of any work. If required, the Bond must be in the form of a surety bond of a type satisfactory to the Town of Brookfield. All sureties must be listed on the most recent IRS circular 570. The Bond shall be delivered to the Town Finance Office prior to commencing work.
15. **Bid Bond**: A Bid Bond is NOT required in the amount of 0% of the total cost in a format required for both the payment and performance bonds is required.
16. **Contractors Qualification Statement** ; The contractors qualification statement shall be filled out as part of the bid proposal package,
17. **Hold Harmless Agreement** : Bidders shall sign and return the Hold Harmless agreement in order for the proposal to be considered complete and valid.
18. **Project Location** : The initial Phase 1 work shall be performed on any Town owned Public Property or Town Right of Way. A possible Phase 2 will be negotiated at the time of the extension.
19. **Time of Completion** : The work must be performed on a Time of the Essence basis.
20. **Pre-Bid Meeting** : There is no pre-bid meeting scheduled.

21. **Questions** : Questions shall be directed to Jerry Gay, Purchasing Agent at 203-775-7613 or jgay@brookfieldct.gov
22. **Bid Submissions** : The following items shall be submitted for a bid to be considered complete :
- (a) Executed Hold Harmless
 - (b) Certificate of Insurance naming the Town as Additional Insured
 - (c) Contractors Qualification Reference Statement
 - (d) Non Collusive Certification
 - (e) Bidders Corporate Declaration
 - (f) Contractor Equipment Listing
 - (g) Declaration of Authority to bind vendor
 - (h) Bond documentation – Performance and Payment
 - (i) Proposal Prices for items requested on attached price sheet

REQUEST FOR PROPOSALS FOR NON-EXCLUSIVE CONTRACT FOR DEBRIS CLEAN-UP IN TOWN OF BROOKFIELD RESULTING FROM 5/15/18 MACROBURST AND POSSIBLE FUTURE EVENTS

Town of Brookfield, Connecticut, (the “Owner”) is seeking proposals for a Phase 1 removal of disaster related debris from Town owned public property and rights-of-way (ROW) generated by the Macrobust storm of May 15, 2018, along with possibly extending the contract for three years through June 30, 2021 for future work and events as may be deemed necessary. The Town, at its sole discretion, may issue a Phase 2 initiative for the additional removal of private property debris that is brought to the Town Road Right of Way. Phase 2 will be determined at a later date and this contract award may be extended to that work, if the Town proceeds forward and it is in the Towns best interest to do so.

Contractor must meet the following general conditions:

- 1) be licensed to do business in the State of Connecticut;
- 2) be able to provide services to clean up, remove, haul and dispose of Debris as defined in the Services of Contractor set forth on Exhibit “A” attached hereto and incorporated herein by reference (the “Services”);
- 3) be willing, capable and responsible of performing the Services, including but not limited to, proper documentation preparation, management and event closure services;
- 4) be knowledgeable and have experience in providing of the Services as described herein, and to insuring that all Services qualify for reimbursement under the Federal Emergency Management Agency (FEMA) as per Title 2, section 200.318 - 326 as listed on the FEMA web page and the State of Connecticut Department of Emergency Management and Homeland Security (DEMHS), as hereinafter defined; and
- 5) have the resources necessary to meet the Contractual obligations of this Contract.

Contractor must further provide all information requested in this RFP.

SUPPLEMENTAL GENERAL CONDITIONS

1. Services: Contractor must review the Scope of Services attached hereto as Exhibit "A" and provide support for the fact that it has sufficient experience and expertise as is necessary to insure that all charges incurred by the Owner with respect to Contractor's Services hereunder are eligible for reimbursement by FEMA and/or DEMHS. Contractor agrees that it will not charge the Owner for any work or services that are not Eligible Services without prior approval by Owner, reflected in its minutes.

2. Payment to Contractor:

- A. Contractor shall be paid for the Services rendered and accepted in accordance with the unit prices specified in the Rate Schedule on a Cubic Yard Cost attached hereto as Exhibit "B" for eligible debris. To receive payment under this Contract, Contractor shall submit an invoice to the Owner's Monitor for the debris hauled to each disposal site, which shall be calculated from load tickets that are issued by Owner representative at each site. Contractor shall be paid solely on the tickets issued and verified by the Monitor for the Owner at the disposal facilities. All loads hauled shall be full and well compacted. When a load is delivered, the driver shall provide the Owner's Monitor with the load ticket. The Monitor at the disposal site will rate each load as a % of fully loaded capacity as predetermined through truck or trailer bed measurement by the Monitor.
- B. Contractor shall furnish and pay the cost of all the necessary materials and shall furnish and pay for all the superintendents, labor, tools, equipment, transportation and perform all other work required for the removal of all disaster debris, as defined herein, in strict accordance with this Contract, and any amendments thereto and such supplemental plans and specifications which may hereafter be approved.
- C. Contractor acknowledges that the Owner will apply for FEMA and/or DEMHS assistance. Therefore, Contractor represents that it will perform all Services hereunder in a manner, time and place so as to insure and be consistent with such reimbursement by those agencies to the Owner. Owner reserves the right to withhold amounts owed to Owner by Contractor from any payments due to Contractor from Owner.
- D. All payments made to the Contractor shall be subject to a 5% retainage and will be retained for a minimum of ninety (90) days after completion of all contract work to insure against timely completion of the project and/or undiscovered damage to public or private property.
- E. All invoices received from Contractor pursuant to this Contract will be reviewed and approved by Owner designated representative. Contractor acknowledges that all invoices properly submitted to the Owner will be paid within 120 days of said submission if invoice is for eligible debris removal, as identified by FEMA's guidelines, field staff and validation team.
- F. Contractor shall not be paid to handle, process, or dispose of debris that is unrelated to disaster damage. Further, Contractor shall bill the Owner and be paid only for eligible debris that originates within Town of Brookfield and is currently located on Public property or ROW.
- G. The Owner does not guarantee Contractor a specific amount of work under this Contract or a specific amount of compensation hereunder.

- H. Contractor shall not charge any resident, business or institution for work performed under this scope of work, nor shall Contractor or anyone employed or subcontracted by Contractor accept any additional monies from any resident, business, or institution for work performed under this scope of work.
- I. Contractor shall clearly include the words "final invoice" on Contractor's final billing to the Owner. This statement by Contractor shall constitute Contractor's certification that all services have been properly and completely performed by Contractor and all charges and costs have been properly invoiced to the Owner and that all such charges are for Eligible Services. Since this account will thereupon be closed, any and all further charges if not properly included on this final invoice shall be deemed waived by Contractor.

3. Inspection by Contractor: Contractor represents that it has inspected the areas where Debris is to be collected and removed and is familiar with the Owner's roadway system, roadway widths, and other factors that will affect the work to be performed and has not relied on any representation of conditions made by any officer, agent or employee of the Owner. Contractor understands that any information provided by the Owner is meant only to assist the Contractor and Contractor agrees to rely on its own knowledge and investigation and not any assistance provided by Owner. Contractor acknowledges that it is prepared for potentially adverse working conditions including, but not limited to, limited fuel supplies, limiting housing availability, limited food and water supplies, and wet and muddy conditions, and that these factors were considered in determining the costs originally agreed upon by the parties. Some area's may have substantial debris piles including large tree trunks, while other area's may have very little. Scheduling shall be done in conjunction with the Owners representative for the area's at highest priority to clear.

4. Hours of Work: Contractor recognizes that, at the time this Request for Proposals was prepared, the time period for reimbursement by FEMA for debris removal is limited. The Contractor shall operate during daylight hours coordinating with landfills, unless otherwise directed by the Owner's designated representative. Removal of debris shall be restricted to between the hours from dawn to dusk. Contractor shall devote such time, attention and resources to the performance of Contractor's services and obligations hereunder as shall be necessary to complete this project. Contractor shall notify Monitor by close of business each Thursday whether weekend work is anticipated. If a truck is loaded too late in the day to travel to the disposal site, a load ticket may be written for a full load only.

5. Local Preference / Socio-economic:

A. In choosing materials related to its services under this Contract, to the extent fiscally responsible, the Contractor shall give preference to materials grown, produced, prepared, made or manufactured in the State of Connecticut. Contractor will make every effort to utilize and employ local subcontractors, equipment rental, supplies and other locally available resources, when fiscally responsible. For purposes of this project, local shall be defined to mean the jurisdictional boundaries of the Owner.

B. Certified small and minority business, and women's business enterprises that are qualified for such work are actively encouraged to respond and awarded Contractor(s) shall actively solicit the same for any sub-contracts as may be let.

6. Time of the Essence:

- A. Contractor understands that the deadline for reimbursement by FEMA is limited, and that time is of the essence in the performance of this Contract.
- B. Contractor understands that as much eligible debris must be removed from public right-of-ways and public properties while weather conditions permit.
- C. Contractor agrees to provide necessary performance bond, payment bond, Hold Harmless agreement and insurance certificates and commence the performance of services under this Contract no later than twenty-four (24) hours after execution hereof.
- D. Contractor agrees to work diligently to complete this Contract by at the earliest possible date;
- E. Both parties pursuant to applicable federal, state and local law will equitably negotiate subsequent changes and completion time.

7. Reserved for future use

8. Liability and Indemnity:

- A. Contractor agrees that he shall be responsible for all damages and all liability to both public and private property in the performance of its duties under the Contract, and shall report such damages to the Owner's designated representative as soon as possible.
- B. Contractor agrees to indemnify and save harmless the Owner, its officers, agents, monitors, representatives, employees and attorneys from and against any and all losses and claims, demands, payments, suits, actions and judgments of every kind, including, without limitation, attorneys fees and expenses for the total cost of review and defending same, that may be brought or recovered against them by reason of any action or omission of the Contractor, its agents or employees (including those of any of his sub-contractors) in the performance of work under this Contract.

9. Liability Insurance: The Contractor agrees to and shall procure and maintain during the duration of this Contract, Contractor's general public liability and property damage insurance, including auto liability and employer's liability coverage, insuring Contractor from all claims from personal injury, including death, and claims for destruction or damage to property arising out of or in connection with any operations under this Contract, whether such operations are by the Contractor or a subcontractor of the Contractor, and said insurance shall name as additional insured, waive and hold harmless the Owner and the Monitor. Certificates of Insurance shall be filed with the Owner and shall list the Owner and Monitor as additional insured. All liability insurance must contain contractual action over claims cause; Insurance shall be written with limits of liability of not less than the following:

- A. **\$1,000,000** primary limit, for all damages arising out of bodily injury, including death, with an umbrella coverage of **\$4,000,000**.
- B. **\$1,000,000** primary limit for all property damage, with umbrella coverage of **\$4,000,000**.

10. Workers Compensation Insurance: Contractor shall provide Workers Compensation Insurance and maintain at its expense during the term of this Contract, in accordance with workers compensation laws of the state, including occupational disease provisions, for all of the Contractor's employees, and in case any work is sublet, Contractor shall require any such subcontractor similarly to provide Workers Compensation Insurance, including occupational disease provisions, for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Contractor. In case employees engaged in hazardous work under this contract are not protected under the Workers Compensation Law, the Contractor shall provide, and shall cause each subcontractor to provide adequate and suitable insurance for the protection of its employees not otherwise protected. Any uninsured subcontractors are hereby deemed to be covered by the Contractor's workers compensation coverage.

11. Performance Bonds: Prior to beginning work, Contractor agrees to provide the Owner with performance bond payable to, in favor of, or for the protection of the Owner for the work to be performed under this Contract in an amount not less than the estimated contract amount, unconditioned for the full and faithful performance of this Contract. All insurance or bonds required under the terms of this Contract and General Conditions shall be issued by a company licensed to do business in the State of Connecticut.

12. Payment Bond: Prior to beginning work, Contractor agrees to provide the Owner with a payment bond conditioned for the prompt payment of all persons supplying labor or material in the performance of the work in an amount not less than the estimated contract amount.

13. Subcontractor: All information required of submitting Contractor is also required from any proposed subcontractor or firm which Contractor expects to utilize. Contractor acknowledges that it is completely responsible for the actions or inactions its subcontractors. Contractor shall be responsible for the compliance of all subcontracting parties with the terms of this Contract and with any applicable local, state or federal laws or regulations. Contractor shall not employ any subcontractors who are on any State of CT or FEMA listing of debarred contractors. Contractor shall be solely responsible for timely paying its subcontractors. The Owner reserves the right to reject the selection of any subcontractor and to inspect the facilities and equipment of any subcontractor. Contractor is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. If any subcontractor fails to perform or make progress, as required by this Contract, and the replacement of such subcontractor is necessary in order to complete the work hereunder in a timely fashion, Contractor shall promptly replace such subcontractor, subject to the Owner's approval of the new subcontractor.

14. Independent Contractor: At all times and under all conditions, Contractor shall continue to be an independent Contractor and shall not represent itself in any way as an agent of the Owner. As independent contractors, Contractor and all sub-contractors are not entitled to any Owner employment benefits.

15. Federal Modifications: This Contract and all attachments hereto are subject to modifications as FEMA and DEMHS may require. See attached Title 2, section 200.326 and Appendix II supplemental contract provisions that shall apply as warranted.

16. Termination: Contractor may terminate this Contract upon thirty (30) days written notice to the Owner, provided, however, that during such thirty (30) days (or until earlier release by the Owner),

Contractor shall continue to diligently perform all of its duties hereunder. The Owner may cancel this Contract at any time for any reason, with or without cause, upon written notice to the Contractor. If this Contract is terminated by the Owner with written notice to Contractor, the Contractor shall be paid for the eligible work performed to the time of termination. The termination of this Contract by the Owner for inadequate performance shall not relieve Contractor of any obligations and liabilities that have accrued at the time of such termination. If this Contract is so terminated, the Owner shall be liable only for goods or services then delivered by Contractor and accepted by the Owner. Such termination shall be effective as of the date and time designated by the Owner.

This Contract shall be deemed to have been completed in accordance with its terms when the Owner notifies Contractor that all Debris has been removed to the satisfaction of the Owner.

17. Personnel: Contractor represents and warrants to the Owner that Contractor has, or shall secure at its own expense prior to the commencement of services hereunder, all necessary personnel required to perform the services under this Contract. Such personnel shall not be deemed to be employees or agents of the Owner or to have any contractual relationship with the Owner. All services required of Contractor hereunder shall be performed by Contractor or under its supervision, and all personnel engaged in performing such services shall be fully qualified, and if necessary, authorized under applicable law to perform such services. Any changes or substitutions in Contractor's key personnel must be approved in advance by the Owner. Contractor represents and warrants to the Owner that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. Contractor shall remove from the work described in this Contract any person the Owner deems to be incompetent, careless or otherwise objectionable. Provide in the Contractor's Technical Proposal, the number of personnel that will be secured to provide the services described herein broken into categories of job titles.

18. Safety:

- A. Contractor understands and acknowledges that it will be working in congested areas. Contractor shall employ flag men and other necessary measures to protect the public and shall be fully responsible for implementing safety measures in performing its work under this Contract. Contractor will provide necessary traffic control measures. Traffic control shall comply with Manual on Uniform Traffic Control Devices (MUTCD).
- B. Contractor shall be responsible for the conduct and actions of all of its employees and subcontractors. Contractor's employees and subcontractors shall not exhibit any pattern of discourteous behavior to the public or otherwise act in a manner contrary to the best interests of the Owner.
- C. Contractor shall employ and utilize sufficient manpower and equipment to assure that work zone safety is in keeping with all requirements established by the Federal Highway Administration (FHWA) Manual for Work Zone Safety. The Owner reserves the right to curtail work efforts until unsafe practices are corrected. Contractor shall present to the Owner, within 48 hours of the execution of this Contract, a copy of emergency procedures designed to facilitate prompt notification of emergency response personnel in the event of accidents or injuries to employees or other persons associated with or in proximity to work zones. It shall be the responsibility of Contractor to make assurances that any and all equipment and/or vehicles used in connection with the work hereunder meet applicable federal, state, and local laws and regulations regarding the use of such vehicles and equipment on public roadways.

19. Federal and State Taxation: Contractor shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to work performed under or contemplated by this Contract and all other applicable taxes.

20. Successors and Assigns: This Contract shall be binding upon the parties and their respective successors and assigns; provided, however, that this Contract may not be assigned by Contractor without the prior written consent of the Owner, which consent may be withheld at the sole and absolute discretion of the Owner. No provision hereof shall be deemed to create any personal liability on the part of any officer, agent, or Monitor for the Owner, nor shall this Contract be deemed to create any rights or benefits to any person other than the Owner or Contractor.

21. Progress Reports: Contractor shall provide progress reports to the Owner on a weekly basis or more frequently as requested by the Owner. Such reports shall contain, at a minimum, total cubic yards collected, daily totals, and description of the geographical areas being addressed by the Contractor.

22. Default: Either party shall be in default hereunder upon the failure to perform any material provision hereof. In the event of a default by the Owner, Contractor shall be entitled to exercise any and all rights and remedies available under the laws of the State. In the event of a default by Contractor, the Owner shall be entitled to exercise any or all of the following remedies, alone or in conjunction with others: (a) the termination of this Contract; (b) the withholding of the retainage specified herein to be applied to damages incurred by reason of such default; and (c) the exercise of all other rights and remedies available under the laws of the State of Connecticut.

23. Credit: Contractor shall not pledge the Owner's credit or make the Owner a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Contractor further represents and warrants that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

24. Performance: Contractor shall perform its obligations hereunder in a manner so as not to interfere with the normal operations of the Owner. Such performance by Contractor shall be in compliance with all applicable local, state and federal laws and regulations.

25. Disclosure and Ownership of Documents: Contractor shall deliver to the Owner or its designated representative for approval and acceptance, prior to the Owner's final payment hereunder, all documents and material prepared and/or utilized by Contractor in connection with this Contract. All oral and written information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the Owner, or at its expense, will be kept confidential by Contractor and will not be disclosed by Contractor to any other person or entity, either directly or indirectly, without the Owner's prior written consent, unless otherwise required by lawful court order, after a hearing at which the Owner is represented. All drawings, maps, sketches, programs, data bases, reports and other data developed, produced, created or purchased under or pursuant to this Contract for or at the Owner's expense shall be and remain the Owner's sole property and may be reproduced at the discretion of the Owner. All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made relating to disclosure or ownership of documents and information, shall survive the execution, delivery, and termination of this Contract.

26. Access and Audits: Contractor shall maintain adequate records to justify all charges, expenses and costs incurred in performing the Services for a period of at least three (3) years following completion of this Contract. The Owner and Monitor shall have full and complete access to all records, documents, and information collected and/or maintained by Contractor in the course of the

administration and performance of this Contract. This information shall be made accessible at Contractor's local place of business in the Owner's jurisdiction, for purposes of inspection, reproduction and audit without restriction. If records are unavailable in the jurisdiction, it shall be Contractor's responsibility to insure that all required records are provided to the Owner at Contractor's expense.

27. Nondiscrimination, Conflicts of Interest, Debarment : Contractor represents and warrants that all of its employees are and shall be treated equally during employment by Contractor without regard to race, color, religion, physical handicap, sex, age or national origin. Contractor represents that it does not have a real or apparent conflict of interest, financial or otherwise, with any employee, or relationship to an employee's family, of the Town of Brookfield. The contractor represents it is not debarred by either the State of CT or by the Federal Government.

28. Entire Agreement: This Contract constitutes the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted from, modified, superseded or otherwise changed, except by written instrument executed by the parties hereto.

29. Severability: If any term or provision of this Contract shall be held to be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

30. Modifications of Work: The Owner reserves the right to make changes in the Services, including alterations, reductions or additions thereto. Upon receipt by Contractor of the Owner's notification of a contemplated change, Contractor shall (a) if requested by the Owner, provide an estimate for the increase or decrease in cost due to the contemplated change, (b) notify the Owner of any estimated change in the completion date, and (3) advise the Owner in writing if the contemplated change shall affect Contractor's ability to meet the completion dates or schedules of this Contract. If the Owner instructs in writing, Contractor shall suspend work on that portion of the services affected by a contemplated change, pending the Owner's decision to proceed with the change. If the Owner elects to make the change, the Owner shall issue a contract amendment or change order and Contractor shall not commence work on any such change until such written amendment or change order has been issued and signed by both parties

31. Non-Exclusive Contract: This Contract shall be non-exclusive and the Owner may award the services contemplated hereby to multiple vendor firms at the Owner's discretion in the interests of timely removal of debris.

32. Venue: This Contract shall be construed and enforced in accordance with the laws of the State of Connecticut, without regard to conflicts of laws.

33. Laws and Regulations: All applicable federal, state and local laws, ordinances, rules and regulations, including those of FEMA, DEMHS, OSHA and all other authorized agencies and entities having jurisdiction over any part of this Contract shall apply to this Contract, and this Contract shall be interpreted in a manner consistent with all such laws, ordinances, rules and regulations.

34. Monitoring of Contract for Debris Removal: The Owner shall provide, and Contractor shall allow, monitoring and inspections as necessary to determine contract performance, which may include, but is not limited to, on-site inspections, monitoring of operations, and inspections of operating records during Contractor's operating hours. Contractor will notify Monitor each day of the number of work

crews and disposal sites that will need assigned monitors, 24 hours before crews arrive, to facilitate the proper staffing for certification of truck volumes and issuance of load tickets. Owner may increase or decrease the number of monitors provided to the Contractor to meet the debris removal needs.

The contractor shall construct an inspection tower at each Debris Management Site (DMS) and disposal site/approved landfill specifically for this project, as described below or approved equivalent. The tower shall be of sound construction. The floor elevation of the tower shall be 10 foot above the existing ground elevation. The floor area shall be a minimum of 8' by 8' and the perimeter of the floor area shall be protected by a 4 foot high wall with adjustable weather resistant curtains. The floor area shall be covered with a roof with a minimum of 6'-6" of headroom below the support beams. Steps shall provide access with a handrail. The inspection tower shall comply with standard OSHA requirements and local codes. The tower is for the purpose of the Owner/Monitor viewing and grading loads. FEMA or DEMHS may occupy the tower at their discretion for QA/QC purposes. Others may use the inspector tower to view loads under special circumstances.

35. Environmental Concerns: Any environmental samples, analyses, or remediation actions required as a result of Contractor's operations, or activities shall be the full responsibility of the Contractor.

36. Contract Language: Use of the masculine includes feminine and neuter, singular includes plural, and captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope or intent of this Contract.

37. Incorporation of Contract Documents: The Contract between Owner and Contractor shall consist of this document and all exhibits referenced herein, the Request for Proposal and the Contractors' Response to the Request for Proposal. If the documents are in conflict, the order of precedence shall be as follows: Non-Exclusive Contract for Clean-Up of Debris Generated by Future Disasters with Exhibits, Request for Proposals for Non-Exclusive Contract with Exhibits, then the Contractor's Response to the Request for Proposals.

38. Award of Contract: The Owner reserves the right to award contracts to multiple companies. The Owner reserves the right to delete from the Scope individual proposal items from the Contract at any time following the award of the Contract to the successful proposer(s), while requiring the Contractor to continue to remove other awarded proposal items. The Owner reserves the right to award portions of work to separate contractors. One Contractor may be awarded any one (or more) individual proposal items within the Scope.

39. Reserved for Future Use

This is a request for proposals and not an offer. The Owner reserves the right to reject all proposals and to make an award(s) as to what is in the best interests of the Town. The Owner further reiterates that this is a non-exclusive contract and that it may award the total project to multiple contractors by task, by region or zone, or by any other divisions the Owner may determine are in its best interest.

EXHIBIT A

Scope of Services - detail

The primary purpose of this scope of work is to maintain the public health, safety, and well being of the Owner during the response to an emergency situation, as well as to restore the public areas to a normal condition. The Contractor understands and agrees that debris removal in the most expeditious manner possible is of the utmost importance and it will make every effort to complete all requirements of this Contract in the shortest time possible. Debris removal from private property may be added to this contract as part of a Phase 2 initiative, but is currently specifically excluded at the time of this issuance.

The primary work to be performed under this Contract shall consist of collection, removal, and disposal of the debris caused by the Macrobust disaster of May 15, 2018. The Contractor shall not be paid to remove, process or dispose of debris that is unrelated to the Macrobust disaster damage. Direction by the Owner in this proposal shall also mean direction by the Monitor.

Trees, limbs and debris (including fallen trees) which are located partially on or above Town public property or right-of-way shall be cut at the right-of-way line or property line, and the public portion shall be removed under this contract. No debris shall be loaded without the presence of a monitor issuing a proper load ticket to document the origin of the load, date, contractor name, truck number, truck capacity, point of debris collection, and loading departure time.

The Contractor shall maintain Debris work sites in accordance with appropriate use standards, safety standards, and regulatory requirements. All loads hauled shall be full and well compacted. Contractor shall track and map streets cleared of eligible ROW debris during each pass and provide this information to the Monitor on a daily basis.

To receive payment under this Contract, Contractor shall submit an invoice to the Monitor for the debris hauled to each reduction or disposal site in accordance with the specifications, which shall be calculated from load tickets that are issued by an Owner representative at each site. Contractor shall be paid solely on the tickets issued and verified by the Monitor at the reduction sites.

1. Removal and Hauling Vegetative Debris:

As identified by and directed by the Owner or Monitor, the Contractor shall accomplish the pickup, loading, and hauling of all vegetative Debris collected from public property and ROW. The Contractor shall haul vegetative debris to a Debris Management Site (DMS) as designated by the Owner. This includes fallen tree and limb debris that is located on public property and ROW. Payment under this pay item shall be based on a per cubic yard quantity.

2. Site Management:

The Contractor shall manage one or more DMS sites designated by the Owner. This may include vegetative debris delivered to the DMS by the Contractor, by the Owner, or by others. Site management and maintenance, site preparation, and site closure shall comply with all local, state, and federal laws and regulations. Compliance with site closure requirements must be confirmed in writing by the Connecticut Department of Energy and Environmental Protection (DEEP) prior to final payment to the Contractor. DMS management shall include site ingress/egress maintenance, site

security, and shall include segregation of types and sources of debris, as directed by the Owner. The Contractor shall provide an inspection tower in accordance with the Supplemental General Conditions. Payment under this pay item shall be based on a per cubic yard quantity.

3. Reduction of Vegetative Debris by Grinding:

The Contractor shall manage one or more DMS sites designated by the Owner and shall reduce eligible vegetative debris by grinding. This may include vegetative debris delivered to the DMS by the Contractor, by the Owner, or by others. Debris reduction by grinding shall comply with all laws and regulations. Payment under this pay item shall be based on a per cubic yard quantity.

4. Loading, Hauling, and Disposal of Vegetative Debris Reduced by Grinding:

Contractor shall load and haul reduced (by grinding) vegetative debris to a final disposal site as directed by the Owner. The Contractor may be required to remove, haul, and dispose of reduced vegetative debris from a DMS site or sites managed by others, to an approved landfill as directed by the Owner or Monitor. This pay item does include tipping or disposal fees. The Contractor shall provide an inspection tower in accordance with the Supplemental General Conditions. Payment under this pay item shall be based on a per cubic yard quantity.

5. Priority of Work Areas:

The Owner will establish the priority of and shall approve the geographic work areas and types of debris in advance, which the Contractor will be allowed to work. Daily and/or weekly scheduled meetings will be held to determine approved work areas. If multiple contracts are awarded, each Contractor will be assigned a geographic area or type of debris. The Owner may choose to reassign areas at any time for any reason. The Contractor shall remove all Debris and leave the site from which the Eligible Debris was removed in a clean and neat condition with the understanding that there will be certain Debris that is not picked up by equipment, machinery and general laborers used by the Contractor. Determination of when a site is in a clean and neat condition will be at the reasonable judgment of the Owner or its agent.

6. Debris Ownership and Hauling Responsibilities:

Once the Contractor collects debris, it is the property of the Contractor and the Contractor is solely responsible for all aspects related to the debris, including, but not limited to, the hauling and disposal of the debris. Notwithstanding the above, the Contractor will be responsible for all documentation related to the collection, and disposing of the debris for FEMA and DEMHS reimbursement purposes.

7. Debris Disposal:

- A. The Contractor shall dispose of all Debris, reduced Debris, and other products of the Debris management process in accordance with all applicable federal, state and local laws, standards and regulations. Final disposal locations will be at DEEP approved facilities with prior notification to the Owner and their consent on the proposed disposal site. The Contractor and the Monitor representative assigned to the disposal process shall maintain disposal records and documentation. All temporary disposal and reduction sites shall comply with all local, state, and federal laws and regulations. Location and operation of all temporary disposal and reduction sites must be approved by Owner.

- B. If Contractor hauls debris to a temporary DMS that was not permitted prior to the disaster, the Contractor is responsible for ensuring certification of proper closure of the DMS site per DEEP criteria. Acceptance of proper closure by DEEP must be documented by the Contractor prior to final payment under this contract.
- C. Contractor acknowledges, represents and warrants to the Owner that it is familiar with all laws relating to disposal of the materials as stated herein and is familiar with and will comply with all guidelines, requirements, laws, regulations, and requests of FEMA, DEMHS or any other federal, state or local agencies or authorities.
- D. Contractor acknowledges and understands that any disposal, removal, transportation or pick-up of any materials not covered in this scope of work shall be at the sole risk of the Contractor. Contractor understands that it will be solely responsible for any liability, fees, fines, claims, etc., which may arise from its handling of materials not covered by this scope of work.
- E. Contractor is responsible for determining and complying with applicable requirements for securing loads while in transit and that all trucks have a solid tailgate made of metal. Contractor shall assure that all loads are properly secured and transported without threat of harm to the general public, private property and public infrastructure.
- F. The Contractor shall insure that all vehicles transporting Debris are equipped with and use tarps or netting to prevent further spread of Debris.

8. Contractor Equipment:

- A. All equipment and vehicles utilized by the Contractor shall meet all the requirements of federal, state and local regulations including, without limitation, all U. S. Department of Transportation (USDOT), Connecticut Department of Transportation (ConnDOT) and safety regulations, and are subject to the approval of the Owner. All loads must be secured and tailgates must be used on all loads. Sideboards must be sturdy and may not extend more than two feet above the metal sides of the truck or trailer. Trucks shall carry a supply of absorbent to be used to pickup any oil spilled from loading or hauling vehicles.
- B. The Contractor shall supply vinyl type placards identifying the Owner, the names of the Contractor and subcontractor, and large spaces for the Monitor to write in the assigned Truck Number and measured Cubic Yardage of the truck or trailer. The Contractor shall maintain a supply of placards during the project in the event replacements are needed. Placards must be in plain view from the tower as trucks or trailers enter the disposal facility.
- C. The Contractor shall furnish a complete and updated list identifying truck and trailers that will be used in the transport of Debris from the Temporary Debris Management Site (DMS) sites to the permanent disposal sites. The listing shall include the following information;
 - a. Truck and/or trailer license number.
 - b. Year, make and color of each truck and/or trailer.
 - c. Cubic yardage capacity of each trailer as measured and recorded by the Monitor

- D. Each truck and trailer passing through disposal check points shall be identified by a contractor's logo and an identifying number that ties the vehicle to the above information. Any vehicle not matching the above information or not containing other identification as may be required by the Owner shall not be paid for Debris being transported.
- E. Contractor shall be responsible for providing protective gear and equipment to its agents and employees.

9. Property Damage:

The Contractor shall be responsible for all damages to public and private property. The Contractor shall have at least one responsible individual per every 25 work crews, who is dedicated to resolving reports of property damage. Contractor shall maintain a log of property damage reports and their resolution, including dates for each damage report, contact, and resolution. If public or private property damaged by the Contractor is not repaired or resolved on a timely basis to the satisfaction of the Owner, the Owner has the option of having the damage repaired at the Contractor's expense to be reimbursed to the Owner or withheld from the Contractor's future payments.

Town of Brookfield
Bidder General Information/References Sheet

Company Name : _____

Address : _____

Contact Name : _____

E-mail : _____

Phone : _____ Fax : _____

Years in Business : _____ Form of Firm: Sole Proprietor ; Partnership ; LLC ; Incorporated

References of similar work – Municipalities Preferred :

1. Client: _____

Project Address: _____

Contact Name _____ Telephone _____

E-Mail : _____

Contact value / Items : _____

1. Client: _____

Project Address: _____

Contact Name _____ Telephone _____

E-Mail : _____

Contact value / Items : _____

2. Client: _____

Project Address: _____

Contact Name _____ Telephone _____

E-Mail : _____

Contact value / Items: _____

EXHIBIT “B”

CONTRACTOR’S PRICE PROPOSAL

Date _____

Proposal of _____ (hereinafter called “Contractor”), authorized to do business under the laws of the State of Connecticut, proposes to Town of Brookfield, Connecticut, (hereinafter called “Owner”).

Ladies and Gentlemen:

The Contractor, in compliance with your invitation for proposals for:

DISASTER DEBRIS REMOVAL

Having examined the specifications with related documents and the sites of the proposed work, and being familiar with all of the conditions surrounding the work of the proposed project, including availability of equipment and labor, hereby proposes to perform in accordance with this Request for Proposal, and at the prices stated. These prices shall cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is a part. Unbalanced bids will not be accepted and are cause for rejection of any proposal.

Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written “Notice to Proceed” of the Owner and to fully complete the work in the Contractual period of time allotted.

This price proposal form must be completed, signed and submitted. No substitute forms will be accepted. Proposals submitted without this completed price proposal will be rejected.

Contractor acknowledges receipt of the following addenda: (list as appropriate)

Contractor agrees to complete the project as described in accordance with the specifications and other information included in the contract documents for the following prices:

Progress Milestones: Contractor is capable of removal of the following quantities of debris within the following time frames:

A. Within 10 days _____ cu. yds.

B. Within 20 days _____ cu. Yds

C. Within 30 days _____ cu. Yds.

Contractor Name :

ITEM NO.	ITEM DESCRIPTION	Est. QUANTITY	UNIT PRICE (Written)	UNIT PRICE (Numeric)	PRICE EXTENSION (Numeric)
1.0	REMOVAL AND HAULING OF ELIGIBLE VEGETATIVE DEBRIS TO A DMS WITHIN TOWN OF BROOKFIELD, including limbs and trees placed on ROW under pay items 10 and 11 below. Validated loads picked up at the designated work zone or right-of-way and hauled to a DMS provided by the Owner.	50,000 CY	_____	\$ ____.	\$ ____.
2.0	SITE MANAGEMENT OF ELIGIBLE VEGETATIVE DEBRIS AT A DMS PROVIDED BY THE OWNER, including site closure to the written satisfaction of the DEMHS. Management of eligible disaster related debris delivered to the DMS by the Contractor, Owner, or others.	50,000 CY	_____	\$ ____.	\$ ____.
3.0	GRINDING OF ELIGIBLE VEGETATIVE DEBRIS AT A DMS PROVIDED BY THE OWNER. Grinding of eligible disaster related debris delivered to the DMS by the Contractor, Owner, or others.	50,000 CY	_____	\$ ____.	\$ ____.
4.0	LOADING, HAULING, AND DISPOSAL OF ELIGIBLE VEGETATIVE DEBRIS REDUCED BY GRINDING FROM DMS TO AN APPROVED LANDFILL AS DIRECTED BY THE OWNER. Loading, hauling, and disposal of eligible debris which has been reduced by the Contractor, Owner, or	25,000 CY	_____	\$ ____.	\$ ____.

ITEM NO.	ITEM DESCRIPTION	Est. QUANTITY	UNIT PRICE (Written)	UNIT PRICE (Numeric)	PRICE EXTENSION (Numeric)
	others, with tipping fees included in this pay item.				
SIGNATURE _____ BY _____			TOTAL BID \$ _____.		
TITLE _____ DATE _____					

INTERPRETATION OF ESTIMATED QUANTITIES

These estimated quantities do not reflect the actual quantities of debris that will be moved as part of this Contract. The Contractor acknowledges that no representation or guaranty is made by the Owner or its agents as to the actual amount of each type of debris to be moved, or the total amount of debris to be moved, reduced, and disposed. The estimated quantities given above will be used for the sole purpose of assisting the Owner in its evaluation of the proposals for potential award of a Contract.

ADDITIONAL SERVICES PROVIDED AT NO COST:

- A. Mobilization and Demobilization- All arrangements necessary to mobilize and demobilize the Contractor's labor force and equipment needed to perform the Scope of Services contained herein shall be made by the Contractor.
- B. Temporary Storage of Documents- The Contractor shall provide storage of daily or disaster-related documents and reports for protection during the disaster event.
- C. Reporting and Documentation- The Contractor shall provide and submit to the Monitor and the Owner, all reports and documents as may be necessary to adequately document its performance of this Contract, to include all requirements for documentation requested by FEMA and DEMHS for reimbursement of costs.

In providing the above data, Contractor has taken into account all contingencies foreseeable by one with the expertise and knowledge in disaster debris removal, including, but not limited to, the Right-of-Entry process for debris removal from private property and the related regulatory agencies' requirements.

No amount of work is guaranteed under this contract. Multiple Contracts may be awarded for work on this project. The amount due to Contractor will be based on the actual cubic yards of debris per pay item multiplied by Contractor's corresponding unit price. The actual amount may be more or less than the total project cost estimate, based on the actual quantity of debris removed.

All payments made to the Contractor shall be subject to a 5% retainage and will be retained for a minimum of ninety (90) days after completion of all contract work to insure against late completion of the project and/or undiscovered damage to public or private property.

Contractor understands that the Owner reserves the right to reject any or all proposals and to make an award as to what is in the best interests of the Town.

Upon receipt of written notice of the acceptance of proposal, Contractor shall execute the final contract within twenty-four (24) hours.

The foregoing prices shall include all labor, materials, equipment, removal, overhead, profit, freight, insurance, etc., to cover the finished work specified in this proposal.

Respondent understands that the Owner reserves the right to reject any or all offers and to waive any informalities in the proposal.

The Respondent agrees that this proposal shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving proposals.

Notices: All notices and communications required or permitted by this Contract shall be deemed to have been given if sent by certified mail, return receipt requested, to the parties as follows:

If to the Owner:
Mr. Ralph Tedesco, P.E.
100 Pocono Road, Brookfield, Connecticut 06804
(203) 775-7318

If to Contractor:

Name : _____

Address : _____

Phone _____ Cell : _____

E-mail : _____

The Contractor's representative and liaison to the Owner during the performance of this Contract shall be :

Name : _____, Phone : _____ Cell _____.

E-mail : _____

The Owner reserves the right to require replacement of representative of Contractor if, in the opinion of the Owner, problems or deficiencies with the representative are identified

The undersigned affirms they are duly authorized to represent this firm,

Respectfully submitted:

Business

Name (please print)

Address

Signature

City, State, Zip Code

E-mail

Office Phone

Fax Number

(Seal - if proposal is by corporation)

EVALUATION & CONTRACT AWARD

EVALUATION:

- A. The Owner reserves the right to conduct a pre-award discussion and/or pre-award/contract negotiations with the responsive and responsible Proposer(s) who after evaluation of the criteria stated in Item D is determined to best meet the needs of the Owner. The Owner has the option to:
1. Request that Proposer(s) modify their proposal to more fully meet the needs of the Owner or to furnish additional information as may be reasonably required.
 2. Process the selection of the successful Proposer without further discussion with or notification to the other Proposers.
 3. Waive any irregularity in any proposal, or reject any and all Proposals should it be deemed in the Owner's best interest to do so. The Owner shall be the sole judge of Proposer's qualifications and reserves the right to verify all information submitted by Proposer(s).
- B. In order to initiate action toward making the required determinations, the Owner must have available, from each Proposer who is or may become eligible for an award, certain current information concerning each apparent or prospective eligible Proposer. In many cases it is deemed advisable to conduct investigations of several Proposers concurrently in order to avoid any delay in making award on urgent programs should an investigation disclose that the apparent successful Proposer is not eligible to receive an award.
- C. The following criteria will be used by the Owner's staff to evaluate the proposals and make a selection:
- Knowledge of the Owner and local emergency management needs, and
 - Assessment of responsive and responsibility of the firm submitting proposal, and
 - Cost of services offered
- D. Award will be made to one or more Proposers that the Owner determines can accomplish the requirements set forth in the Request for Proposal packet in a responsible manner most advantageous to the Owner, cost and other factors considered or to reject any and all Proposals.

BIDDER'S CORPORATE DECLARATION

(To Be Filled In If Bidder Is a Corporation)

Date: _____, 2011

Our corporation is chartered under the Laws of the State of _____ and the names, titles and business addresses of the executives are as follows:

President

Secretary

Treasurer

DECLARATION OF PARTNERSHIP

(To be Filled In If a Bidder Is a Partnership)

Our Partnership is composed of the following individuals:

Address

NON-COLLUSION AFIDAVIT
REMOVAL AND DISPOSAL OF FEMA ELIGIBLE DEBRIS
TOWN OF BROOKFIELD, CONNECTICUT

(This affidavit must be executed for the proposal to be considered)

STATE OF CONNECTICUT

COUNTY OF FAIRFIELD

_____, being first duly sworn,

(Person)

deposes and says that he is _____

(Sole owner, a partner, president, secretary, etc.)

of _____, the party making the foregoing
Proposal;

(Name of Firm)

The Proposer hereby states and certifies, that the submitted proposal is genuine and is not a collusive or sham proposal. The Proposer certifies that the officers, owners, agents representatives, employee's or any party of interest has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer firm or person to submit a collusive or sham bid, in connection with the contract for which the attached proposal has been submitted or refrain from bidding in connection with such contract or has in any manner directly or indirectly sought agreement or collusion or communications or conference with any other Proposer, firm or person to fix the price(s), overhead, profit, or cost elements of the proposal price or the proposal price of any other Proposer, or to secure through collusion, conspiracy, connivance, or unlawful agreement any advantage against the Town of Brookfield or any person interested in the proposed contract. The Proposer certifies that the prices quoted are fair and proper and are not tainted in any way by collusive, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any of its agents, officers, owners, employee's or representatives. The Proposer certifies that no officer or employee or any person whose salary is payable in whole or in part from the Town of Brookfield, or the Brookfield Public Schools, is directly or indirectly interested in the proposal, or in the supplies, materials, equipment, work or labor to which it relates or in any of the profits thereof.

(Affiant)

Sworn to and subscribed to me this _____ the day of _____, 2018.

Notary Public in and for

County of _____

State of _____

My Commission Expires

_____, 20 ____

(SEAL)

APPENDIX - HOLD HARMLESS AGREEMENT

To the fullest extent permitted by law, the undersigned Contractor shall defend, indemnify and Hold Harmless the Town of Brookfield and Brookfield Board of Education, it's affiliated entities, and their employees and agents (collectively "the indemnified parties") , with respect to all losses, damages, fines, penalties, costs and expenses and liabilities, including, but not limited to, costs and expenses of defending against any of the foregoing, arising from any claim, suit or action in which it is alleged or determined that any injury to or death of any person, or damage or destruction to the property of any person caused, in whole or part by : (i) the acts or omissions, whether negligent, willful or otherwise, of Contractor, it's employees or agents; (ii) the violation of any statute, rule, ordinance or regulation, by Contractor, it's employees or agents; or (iii) Contractors agents or employees performance of, non-performance of, or failure to properly perform, its obligations and duties under this contract.

The forgoing obligations to defend and indemnify shall apply regardless of any allegation or determination that an Indemnified Party caused or contributed to, or was liable for, in whole or in part, the death, injuries or damages alleged. Contractor hereby acknowledges its assumption of full and complete responsibility and liability for losses, claims, suits, actions, damages, fines, penalties, costs, expenses and liabilities arising from any of the causes listed herein above, even in cases where the contractors assumption of such responsibility and liability involves the defense and indemnification of an Indemnified Party from the consequences of it's own alleged negligence. Contractor hereby agrees that no condition precedent to it's obligations to defend and indemnify stated herein, whether by way of notice or otherwise, exists or shall constitute a defense to such obligations.

The Contractor shall comply with the Provisions of the Immigration Reform and Control Act of 1986 effective and enforceable as of June 6, 1987 which Act makes unlawful the hiring for employment or subcontracting individuals failing to provide documentation of legal eligibility to work in the United States. The Contractor shall hold the Town of Brookfield and Brookfield Board of Education harmless for the failure of the Contractor to comply with the provisions of said Act.

IN WITNESS WHEREOF, the parties hereto have set their

hand and seal this the _____
Date

Printed Company Business Name

Signed, Sealed and Delivered in the
Presence of:

Signed:

Signed, Authorized Company Representative

Notary Public

Printed Name, Authorized Representative

PERFORMANCE BOND
RFP # 2018-01

STATE OF CONNECTICUT

COUNTY OF FAIRFIELD

KNOW ALL MEN BY THESE PRESENTS: That _____ of the County of _____, and State of _____, as principal, and _____ authorized under the laws of the State of Connecticut to act as surety on bonds for principals, are held and firmly bound unto Town of Brookfield (Owner), in the penal sum of dollars (\$_____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 2018, to which contract is hereby referred to and made apart hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Contract and the Plans and Specifications hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect;

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

Current as of 1-9-17

PERFORMANCE BOND

RFP # 2018-01

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this ____ day of _____, 2018.

Principal

Surety

By: _____

By: _____

Title _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent of Surety is:

**Town of Brookfield
100 Pocono Road, Brookfield CT. 06804**

NON-EXCLUSIVE CONTRACT FOR CLEAN-UP OF DEBRIS

This contract (this "Contract") is made and entered into on the _____ day of _____, 2018 by and between Town of Brookfield, Connecticut (the "Owner") and _____ ("Contractor") authorized to transact business in the State of Connecticut (the "State").

WHEREAS, the Owner is located in an area subject to a variety of potential disaster, including catastrophic disasters, such as major hurricanes, which may produce huge quantities of debris; and

WHEREAS, the Owner desires to retain the services of Contractor, and Contractor desires to provide services to clean up, remove, separate, reduce and dispose of Debris as defined in the Scope of Services set forth on Exhibit "A" attached hereto and incorporated herein by reference (the "Services"); and

WHEREAS, the Contractor represents that it is willing and capable of performing the Services, including, but not limited to proper documentation preparation, management and event closure services; and

WHEREAS, Contractor represents that it is knowledgeable and has experience in the provision of the Services and in insuring that all Services qualify for reimbursement under FEMA and DEMHS, as hereinafter defined;

NOW, THEREFORE, for and in consideration of the terms and conditions herein provided, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the Owner and Contractor hereby contract and agree to comply with these Contract Documents.

The contract documents which comprise and supplement the Contract between the Owner and Contractor consist of the following documents, which documents are made part of this Contract as fully as if disclosed and written at length and made a part hereof:

- 6.1 This Contract;
- 6.2 All Exhibits, including Exhibit A and Exhibit B;
- 6.3 Notice of Invitation for Proposal;
- 6.4 Contractor's Qualifications;
- 6.5 General Conditions;
- 6.6 Contractor's Bonds;
- 6.7 Notice of Award;
- 6.8 Notice to Proceed; and

Current as of 1-9-17

6.9 Any modifications, including Change Orders duly delivered after execution of this Contract.

6.11 If language or terms in these documents conflict, the following order will determine which document's language or terms control. Contract, including Exhibit A – Scope of Services and Exhibit B – Contractor's Proposal, duly authorized Change Orders, General Conditions, Notices, Bonds, and Contractor's Qualifications.

This Contract will be executed in multiple counter-parts, each one of which, when so executed, shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be entered into on the date first above written.

CONTRACTOR

By: _____

Its: _____

TOWN OF BROOKFIELD, CONNECTICUT

By: _____

Its: _____

Attest: _____

Current as of 1-9-17

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses as applicable and warranted :

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.
- b. Key Definitions.

- (1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
 - (2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:
- “During the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section,

and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40

U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- d. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.”** However, for purposes of grant programs where both clauses do apply, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any

subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work

done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”

b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by

FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.
7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree 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). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

- (1) 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.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) 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.

Federal Water Pollution Control Act

- (1) 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.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) 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.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and 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).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual* Chapter IV, ¶ 6.d, and Appendix C, ¶ 2 [hereinafter *PDAT Supplement*]. A contract award must not be made to parties listed in the SAM 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; *PDAT Supplement*, Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:

- (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 - (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally-required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the 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 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 (insert name of subrecipient). 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 (name of state agency serving as recipient and name of subrecipient), 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.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; *PDAT Supplement*, Chapter IV, 6.c; Appendix C, ¶ 4.

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- c. 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. See PDAT Supplement, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.
- d. The following provides a Byrd Anti-Lobbying contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall 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 shall 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 recipient.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

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, _____, 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"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; *PDAT Supplement*, Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of

recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

- b. Changes.

To be eligible for FEMA assistance under the non-Federal entity’s FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

- c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and

agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

- d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), 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.”

12. DHS Seal, Logo, and Flags.

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).
- b. The following provides a contract clause regarding DHS Seal, Logo, and Flags:
“The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor

will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: “The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: “The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”