

L E G A L N O T I C E

Request for Proposal

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

Proposal Due Date:	June 28, 2018
Proposal Due Time:	3:00 PM
Proposal Item:	Hazardous Tree Removal – Emergency Basis.
Proposal Number:	2018 - 02

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: 2018-02
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, Hold Harmless, Non Collusive certification requirements**, should be submitted with the bid or the bidder may be deemed as Non Responsive. This includes the Non Collusion Certification, Hold Harmless and Certificate 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 is expected to be 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 work shall be performed on any Town owned Public Property or Town Right of Way as listed in the detail specifications
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) Proposal Prices for items requested on attached price sheet

Supplemental General Terms and Conditions and General Contract Provisions for Bidders

By submitting a proposal, ALL these terms and conditions are agreed upon and shall become part of any contract or agreement, formal, informal or verbal, and are binding upon notice of an acceptance by the Town of a proposal.

The terms of Bidders/Proposers, Bids/Proposals, Projects and Specifications and similar terms 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 also include the Brookfield School Public School District when warranted.

1. PREPARATION OF PROPOSALS

Proposals must be made upon forms contained herein or as directed elsewhere, unless no forms are provided or it is stated otherwise. The blank spaces in the Proposal (if a blank proposal sheet is included) must be filled in correctly where indicated. The Bidder must state the prices for which he proposes to do each item of the work contemplated. In case of discrepancy where both words and the numerals are requested, the words shall govern. Ditto marks are not considered writing or printing and shall not be used. The Bidder shall sign his Proposal correctly. If the Proposal is made by an individual, his name, post office addresses and telephone number must be shown. If made by a firm, partnership, or corporation, the Proposal must be signed by an official of the firm, partnership, or corporation authorized to sign and bind the firm into contracts, and must show the post office address and telephone number of the firm, partnership, or corporation. Failure to do so may disqualify the bid.

Each bid or proposal must be submitted in a sealed envelope bearing on the outside the name of the Bidder, post office address, bid number, and name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to: Brookfield Town Hall, Purchasing Agent, Room 203, 100 Pocono Road, Brookfield, CT. 06804, and must be received in time to be delivered to the Purchasing Agent via normal mail delivery procedures, both internal and external.

All information shall be entered in ink or by typewriter. Mistakes may be crossed out and corrections inserted before submission of your bid. The person signing the bid shall initial corrections in ink. Corrections and/or modifications received after the closing time specified will not be accepted.

2. SUBMISSION OF PROPOSAL and FOIA

Descriptive literature containing complete specifications must accompany each bid. If a bidder wishes to furnish additional information, more sheets may be added.

Bids shall be submitted in a sealed envelope package to the Purchasing Agent, Room, 203 at 100 Pocono Road, Brookfield CT 06804 no later than the date and time specified for the closing. The Town assumes no responsibility for proposal envelopes or packages that may be misdirected due to incomplete information on the outside of the delivery package (FedX/USPS/UPS) and such misdirected proposal (internal/external) may, at the Towns discretion, be declared late to the Purchasing Director and not opened or considered. Late bids and proposals will not be accepted, opened or considered. Faxed or emailed bids will not be considered. Bids will be publicly opened at the closing date and time with the bidders name and price(s) read aloud. 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.

3. INCURRING COSTS

The Town of Brookfield is not liable for any cost incurred for the preparation of proposals or submission of samples by the firms submitting proposals for the work requested in this bid document or request for proposals.

4. FAMILIARITY WITH THE WORK

Each bidder is considered to have examined the work, location, project or specifications to fully acquaint him with the exact existing conditions relating to the work and has fully informed himself as to the work and effort required and involved and the difficulties and restrictions in attending to the performance of this

bid. The submission of a bid shall be considered as conclusive evidence that the bidder has made such an examination.

5. CONSIDERATION OF PRIOR SERVICE

Previous performance, quality of service and merchandise will be considered, as appropriate.

6. ADDENDA AND INTERPRETATIONS & ALTERNATE PROPOSALS

At the time of the opening of bids each bidder will be presumed to have inspected the work and to have read and to be thoroughly familiar with all of the Contract Documents (including all addenda) as issued, if sample Contract Documents have been included. The failure or omission of any bidder to receive or examine any form, instruction or document shall in no way relieve any bidder from any obligation in respect to his bid.

If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of these specifications, he may submit a written request for an interpretation to the Purchasing Agent. No interpretations as to the meaning of the plans, specifications or other Contract Documents will be made to any bidder orally. Every request for such interpretation should be in writing addressed to the Town of Brookfield, Purchasing Agent, 100 Pocono Road, Brookfield, CT. 06804. To be given consideration, requests must be received at least five (5) days prior to the date fixed for the opening of Bids/Proposals. Any and all such interpretations and any supplementary instructions will be in the form of written Addenda to the Specifications which, if issued, shall be posted on the Town and State purchasing sites with the Bid Documents. Failure of any bidder to receive any such Addendum or interpretations shall not relieve any bidder from any obligations under his bid as submitted. All Addenda so issued shall become part of the Contract Documents. Oral explanations will not be binding on the Town.

The specifications listed are to be interpreted as meaning the minimum acceptable by the Town of Brookfield. Bidders are requested to submit quotations on the basis of these specifications. Alternative bids providing a broader scope and/or services than requested in these specifications may receive consideration providing such equipment and/or service is clearly explained and will be at the sole discretion of the Town of Brookfield as to what is in its best interest. Any exceptions to the specifications requested herein must be clearly noted in writing and are to be included as a part of your bid proposal. If none are included it will be assumed that there are none.

Definition of the word "complete" means that each unit of the equipment proposed shall include all appurtenances, fasteners, parts, accessories, and services ordinarily catalogued.

An item equal to (or better than) that named or described in the specifications may be furnished by the Bidder, except where expressly noted as "no substitutions." The naming of any commercial name, trademark, or other identification shall not be construed to exclude any item of any manufacturer not mentioned by name, nor limit competition, but shall establish a standard of equality only. An item shall be considered Or Equal to the item so named or described if:

- a. It is at least equal in quality, durability, appearance, strength and design.
- b. It will perform at least equally the function imposed by the design for the work being contracted for or the material being purchased.
- c. It conforms substantially, even with deviations, to the detailed requirements for the item in the specifications.

The Bidder shall hold the Town of Brookfield, its officers, agents, servants, and employees, harmless from liability of any nature or kind because of use of any copyrighted or un-copyrighted compositions, secret process, patented or unpatented inventions, articles or appliances furnished or used under this bid, and agrees to defend, at his own expense, any and all actions brought against the Town of Brookfield or himself because of the unauthorized use of

such articles.

7. QUOTATION LIMITATION

Bidders shall offer only **ONE ITEM AND PRICE** for each line item bid. If an Or-Equal item is to be bid, the bidder is to select the brand and model that meets or exceeds the specified item, and submit his bid for that item.

8. ESTIMATE OF WORK

For bidding purposes, the work may have been subdivided into unit price items. The quantities shown are to be considered as approximate only. The Town and Purchasing Agent does not expressly or by implication agree that the actual quantity will correspond therewith, but reserves the right to increase or decrease the amount of any item or portion of the work as deemed necessary.

9. SAMPLES

Samples of articles, when required, shall be furnished free of cost of any sort to the Town of Brookfield. Samples received may be retained by the Town for future comparison. Samples which are not destroyed by testing, or which are not retained for future comparison will be returned upon request at the bidder's expense.

10. WITHDRAWAL OF BID

Bidders may withdraw their proposals at any time prior to the bid closing date and time. No agent/broker shall withdraw or cancel their proposal for a period of sixty (60) days after the bid closing date and time. The successful agent/broker shall not withdraw, cancel or modify their proposal.

11. POWER OF ATTORNEY

Attorneys-in-fact who sign contract bonds must file, with each bond, a certified and effectively dated copy of their power of attorney

12. SUBCONTRACTORS :

Each bidder contemplating the use of any subcontractor shall, if requested and required, submit a list of subcontractors as listed on the Bid Form or attach as necessary. The apparent low bidder, if requested, shall file with the Town of Brookfield, within five (5) days after the date of bid opening, a complete list of the names and addresses of competent, responsible and qualified subcontractors who are actually to perform major portions of the work. This in no way restricts or limits the requirement that all subcontractors must be approved by the Town. Subcontractors listed on the Bid Form or those previously approved may not be changed without the approval of the Town of Brookfield. Local subcontractors, material suppliers, and labor in the Town of Brookfield should be considered and sought insofar, as is practical in the performance of this project. The bidder shall certify on progress payments that Sub Contractor(s) shall be paid at the same percentage for work performed as part of the progress payment and shall be paid in full within a reasonable time of final payment. Failure to pay subcontractors may be a factor in qualification for future work.

13. QUALIFICATION OF BIDDER

In determining the qualifications of a bidder, the Town may consider his record in the performance of any contracts for similar work into which he may have previously entered; and the Town expressly reserves the right to reject the bid of such bidder if such record discloses that such bidder, in the opinion of the Town, has not properly performed such contracts or has habitually, and without just cause, neglected the payment of bills or has otherwise disregarded his obligations to subcontractors, suppliers, state or local codes, men or employees of subcontractors. The Town may make such investigation as he deems necessary to determine the ability of the bidder to perform the work and the bidder shall furnish to the Town all such information and data for this purpose as the Town may request. The Town reserves the right to reject any bid if the evidence submitted by or the investigation of such bidder fails to satisfy the Town that such bidder is properly qualified, or that such bidder misrepresented material facts in the bid documents. Qualified Bidders shall be current with any and all taxes, fees

along with any and all other payments owed to the Town of Brookfield or it's related entities.

14 DISQUALIFICATION OF BIDDERS

More than one proposal from an individual, firm, partnership, corporation, or an association under the same or different names will not be considered. Reasonable grounds for believing that any Bidder is interested in more than one proposal for the work contemplated will cause the rejection of all proposals in which such Bidder is interested. Any or all proposals in which such Bidder is interested will be rejected if there is reason for believing that collusion exists among the Bidders and all participants in such collusion will not be considered in future proposals for the same work. Proposals in which the individual prices are obviously unbalanced may be rejected. No Contract will be awarded except to competent Bidders capable of performing the class of work contemplated.

15 DELIVERY

Inasmuch as this work concerns a needed public improvement or goods or service, the provisions of this bid relating to the time of delivery, performance and completion of the work are of the essence of this bid. Accordingly, the successful bidder shall commence work upon receipt of the signed Purchase Order unless the Town shall authorize or direct a further delay. Time of delivery shall be stated as the number of calendar days following receipt of the Purchase Order by the Bidder to receipt of the goods or services by the Town of Brookfield. Prices quoted must include delivery to the Town of Brookfield as specified on the Purchase Order. No additional charges will be allowed for parking, crating, freight, express or cartage unless specifically stated and included in this bid.

Time of delivery may be considered in the award.

16. PAYMENT

The Town, after inspection and acceptance of the goods and/or workmanship, and in consideration of the faithful performance by the Bidder of all and singular his covenants, promises, and agreements contained herein, agrees to pay the Bidder for the full completion by him of the work embraced in this Contract, within (30) Thirty Days of the receipt of the final invoice. When subcontractors or suppliers are utilized, the successful Bidder for this project may be required to submit a Mechanics Lien Waiver, acceptable to the Town, with each progress payment and/or at time of final payment prior to any payment being made.

Time, in connection with any discount offered, will be computed from the date of delivery to the Town or from the date a correct invoice is received by the Town's Finance Department if the latter date is later than the date of delivery. Prices will be considered as **NET**, if no cash or payment discount is shown.

Unless otherwise instructed, the successful bidder shall submit invoices, to the following:

Town of Brookfield
Office of the Purchasing Agent
Room 203
100 Pocono Road
Brookfield, CT 06804

IT IS UNDERSTOOD AND AGREED THAT SHOULD A BID/RFP PROPOSAL BE ACCEPTED THE DETAIL BID SPECIFICATIONS INCLUDING THE INSTRUCTIONS TO BIDDERS AND THE GENERAL TERMS AND CONDITIONS AND THE SUBMITTED PROPOSAL SHALL ALL AUTOMATICALLY BY THIS REFERENCE BECOME PART OF THE PURCHASE ORDER, CONTRACT, AGREEMENT OR AN ADDENDUM TO

ANY CONTRACT AGREED UPON.

Notification of the bid award will be made by issuance of a purchase order which will be evidence of a formal contract of award. Bidders are to list their bids on the appropriate attached sheets, if included. Bidders may attach a letter of explanation. A dear notification should be made on the standard bid sheets at the appropriate point of explanation that there is a letter of explanation attached. All bids must be NET prices.

The successful bidder shall submit an itemized invoice to the Town of Brookfield for the work as described herein.

The bidder may be required to submit a Mechanics Lien Waiver, acceptable to the Town of Brookfield, with each progress payment and at time of final payment prior to any payment being made, unless waived.

At the time of award the successful bidder may be required to supply the Town of Brookfield a Certificate of Good Standing, certifying that the corporation is in fact a valid Corporation, Partnership, LLC or Sole Proprietorship and presently licensed to conduct business in the State of Connecticut as per all applicable law or regulations for the work being performed.

17. SALES TAX

Certain materials and supplies incorporated in the work of this project are exempt from Connecticut Sales Tax. The Bidder shall familiarize himself with current regulations of the State Tax Department. The tax on materials or supplies exempted by such regulations shall not be included as part of the bid. The Town will furnish the successful Bidder with a valid Certificate 134 sales tax exemption for Municipal Government.

18. CARE AND PROTECTION OF PROPERTY

The Bidder shall take particular care to avoid damages to all private and public property and to private or public improvements within the Town's right of way. Bidder shall make good any damages to the satisfaction of the Town. There shall be no additional compensation for the repair or restoration of private or public property improvements.

19. COMPLIANCE WITH FEDERAL, STATE AND LOCAL CODES

The Bidder shall be responsible for full compliance with any and all Federal, State and/or Local codes, laws, regulations and standards, as applicable, including all OSHA regulations as applicable, for the work and goods or services being provided.

20. AWARD

The Town of Brookfield reserves the right to accept or reject any bid to best serve in its interests, or to hold the bids for sixty (60) days before decision. .

The Town reserves the right to reject any and all bids (or any part thereof), to waive defects in proposals, or to accept any proposal deemed to be in its best interest.

The Town will make its award to either the lowest responsive, responsible bidder or to what it considers to be the Best Value for serving in the Town's best interest.

Exceptions may be considered to the specification provided, providing they are listed and fully explained on a separate page entitled "EXCEPTIONS TO SPECIFICATIONS"

Each exception will be considered as to its degree of impact and total effect on the bid. The purchaser shall determine which (if any taken) exceptions are acceptable, and this determination shall be final.

The Town of Brookfield and BoS reserves the right:

- a. To award bids received on the basis of individual items, or groups of items, or on the entire list of items.

- b. To reject any or all bids, or any part thereof.
- c. To waive any informality in the bids.
- d. To accept the bid that is in the best interest of the Town of Brookfield. The Purchasing Agent's decision shall be final.

21. INSURANCE

Insurance requirements, if required, are detailed under the attached "Insurance Requirements." Certificates of Insurance naming the Town and/or the Brookfield Public Schools as Additional Insured must be provided prior to any work commencing or deliveries made. Continuance Certificates must be submitted for work that continues past the current policy periods.

22. GUARANTEE

The bidder shall unconditionally guarantee for a period of one (1) year, except as specifically noted within these documents, from the date of acceptance, all materials, supplies, equipment, and services; including but not limited to its workmanship, delivery and installation. If within the guarantee period there are any defects or signs of deterioration the bidder shall repair, adjust or replace the item(s) to the complete satisfaction of the Town. These repairs, adjustments, or replacements are at the sole expense of the bidder and shall be made at such times that are agreeable to the Purchasing Agent, Town and BOE so that it is least detrimental to instructional or other programs.

23. PERMITS

When required all licenses and permits for complying with any and all applicable Federal, State, and Municipal laws, codes, regulations in connection with the performance of the work shall be obtained by the Bidder, at no additional cost to the Town. At the Town's sole discretion, Town permit fees, but not the permit, may be waived.

24. OSHA

Bidders shall perform all work according to applicable OSHA Standards and regulations, as may apply

25. NONDISCRIMINATION IN EMPLOYMENT

The successful bidder shall agree and warrant that in the performance of this contract he will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, sex, religion, or national origin in any manner prohibited by State, Federal, County, or Municipal law. A certification of Non-segregated Facilities and a Certification Regarding Equal Employment Opportunity shall be considered a part of this contract

26. MECHANICS LIEN WAIVERS

The successful Bidder may be required to submit a Mechanics Lien Waiver, acceptable to the Town of Brookfield, with each progress payment, and/or at time of final payment, prior to any payment made.

27. MANUFACTURERS SPECIFICATIONS

All work shall be performed to manufacturer's specifications in such a manner as to fully protect all warranties and guarantees. Certified and trained personnel shall be used, at the bidder's expense, where directed by the manufacturer. All work shall fully conform to the manufacturer's specifications. Any and all costs by failure to follow manufacturer's specifications shall be fully borne by the bidder, including all consequences including loss of warranties and guarantees.

Town of Brookfield ; REQUEST FOR PROPOSAL 2018-02
“HAZARDOUS TREE REMOVAL”

The following document constitutes a Request for Proposals (RFP) from qualified contractors for HAZARDOUS TREE REMOVAL from the Macrobust storm of May 15, 2018 as described herein below and conforming to all FEMA guidelines for pricing and reimbursement.

The Town of Brookfield is requesting qualified firms to perform tree hazard and vegetative removal on Town Properties. Among some of the locations will be Parks, Open Space Trails, Still River Greenway Trail, Grounds around Town Buildings, Athletic Fields and Right of Ways. Among the requirements will be the cutting of tree's already fallen into manageable sizes for removal along with the cutting down of standing tree's, over-hanging limbs and partially fallen tree's all which have been determined to be hazardous to persons normally using the property, or hazardous to property or buildings, or are needed to be removed for the normal and safe use of the Town property by the public or employee's.

Many area's have not been inspected in detail to determine a complete detail scope of work of size and numbers of trees and limbs to be processed. At this time, all locations will require for making the hazardous tree condition safe, without reducing, removal or disposal of the debris. All work is subject to either Town or third party monitoring as may be deemed necessary and required by FEMA oversight. All work shall be specifically identified as to the exact location (GPS preferred) including the time of day and such documentation shall be included with invoicing.

The Town of Brookfield shall reserve the right to reject any proposals if the price is deemed excessive. **In addition, the contractor by submitting a proposal agrees to follow all FEMA guidelines and requirements of Title 2, section 200.317-326 including Appendix II contract provisions and provide pricing in accordance with FEMA recommended reimbursement guidelines.**

The contract(s) will be awarded based on what is in the best interest of the Town of Brookfield to the contractor(s) providing the best pricing and response schedules. The completed price sheets, Contractor's Emergency Information and Contact Sheet shall be submitted as detailed below.

<u>PROPOSALS MUST BE RECEIVED BY</u>
3:00 P.M. Thursday, June 28, 2018

Sealed Envelope Proposals are to be delivered to Town of Brookfield, 100 Pocono Road, Brookfield CT 06804, Purchasing Agent, Room 203 by the date and time listed where they will be publicly opened and read aloud.

NOTE: FEMA Debris Contracting Guidelines require that contractors must provide an adequate payment and performance bond. Contractors "Time and Material Rates" and "Unit Price Rates" must include the cost of the payment and performance bond.

Upon award an estimated contract size will be determined while determining a Not to Exceed dollar threshold amount. Contractors may not proceed without a signed written Notice to Proceed from the Town.

EXHIBITS & PROPOSAL PRICE SUBMITTAL FORMS

A-1: MOBILIZATION PROPOSAL

A-2: Unit Price Rates : Equipment
and Personnel

A-3: Leaners, Hangers, Split
Limbs/trees, Stump Grinding, costs

A-1. MOBILIZATION

EQUIPMENT/CREW MOBILIZATION PROPOSAL

Provide an accurate number of crews and personnel that you will have on-site and operational for which you are providing a price quote. For the purpose of this submittal, a "crew" is defined as at least **THREE** professionally trained persons, as outlined in the specifications and necessary equipment (e.g., a bucket truck (s), self-loading trucks) and associated operating personnel).

All equipment must comply with all applicable state and federal regulations for safe usage. The successful awarded contractor (s) must also demonstrate in their proposal the ability to mobilize equipment required to and from Town locations, parks, trails and right-of-way areas for, tree's, hangers, leaners and stumps.

Mobilization Plan

Day 1: _____

Day 2 : _____

Day 3 and after : _____

Values should be cumulative (e.g., 3 crews in Day 1, 5 in Day 2, 8 in Day 3).

(NOTE: If Contractor is selected, substantiation of equipment and crew availability including written letters of commitment and for all subcontractors shall be submitted no later than 24 hours following notification of selection. When determining the availability of crews, do not DUPLICATE the quantities. Fill in blanks and provide the available number of crews for areas that you can provide during each time period).

A-2 Personnel and equipment rates – “Unit price rates”: Unit Price rates will only be authorized as other price structures prove to be unsuitable for the work to be performed due to uncertainty as to the amount of debris or tree’s to be removed. Use of unit price rates will require specific authorization for specific tasks and will have firm fixed ceilings of not to exceed amounts and all such work shall require third party monitoring to ensure accuracy and efficiency in performing the tasks assigned.

List rates for all items as may apply. Write in additional items as needed or able to be provided. Specific line item description’s may be adjusted for the correct descriptions of specific equipment or personnel being provided. Items left blank will be assumed as not able to be provided. This listing may be provided for on a separately attached list.

Personnel Description	Unit	Unit Price
Foreman w/ Truck	Hour	
Certified Arborist	Hour	
Operator w/Chainsaw	Hour	
Tree Climber w/gear	Hour	
Traffic Control Personnel	Hour	
Ground worker/Laborer	Hour	
Equipment Operator	Hour	
Dump truck Driver w/CDL License	Hour	
Equipment Description	Unit	Unit Price
Skid Steer Loader	Hour	
Front End Loader	Hour	
Back Hoe Loader/Excavator	Hour	
Track Excavator	Hour	
Dump truck, 18 yards	Hour	
Dump truck, 19-30 yards	Hour	
Dump truck, + 31 yards	Hour	
Bucket Truck w/ 45’ Lift	Hour	
Genie Lift w/ 15- 45’ Lift	Hour	
Stump Grinder	Hour	
Chipper Truck, 10-18 yards	Hour	
	Hour	
	Hour	
	Hour	
	Hour	
	Hour	
	Hour	

Add or attach additional lines or responses as needed

A-3-1 Removal of Dangerous Hazardous Hanging Limbs (Hangers) “UNIT PRICE RATE”:

Includes the removal of hanging or partially broken limbs from trees on Town Properties and Open Space Locations, as directed by the Town, or the authorized monitor. All cuts and pruning are to be completed in accordance with National Arborist standards. Hangers will only be removed if greater than 2” in diameter at the point of the break.

\$	Per Tree
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A-3-2. LEANERS - Removal of Partially Uprooted OR Split tress – “UNIT PRICE RATES”:

Includes the removal of partially uprooted or split trees from Town properties, open space locations or right-of-way areas as directed and making ready for removal and disposal. Assumes flush cutting of tree trunk. All cuts and pruning are to be completed in accordance with National Arborist standards.

Diameter of Tree at 4.5 feet from base	
6 –23.99 inches	\$ Per Tree
24 – 35.99 inches	\$ Per Tree
36 – 59.99 inches	\$ Per Tree
Larger than 60 inches	\$ Per Tree

A. 3-3. STUMP - Grinding/Removal – “UNIT PRICE RATES”:

Includes the removal or grinding, and collection and disposal of stumps partially uprooted on Town property or right-of-ways as directed. Stumps will be identified and certified by a Town representative or monitor prior to removal. Stumps GREATER THAN 23.99” shall be excavated and made ready to be removed and hauled to the Town of Brookfield approved disposal site. Stumps LESS THAN 23.99” shall be ground below grade in accordance with specifications.

Diameter of Stump at 2-feet from base	
Grinding Rate for Stumps 1 – 12.99 inches	\$ Per Stump
Grinding Rate for Stumps 13 – 16.99 inches	\$ Per Stump
Grinding Rate for Stumps 17 – 19.99 inches	\$ Per Stump
Grinding Rate for Stumps 20 – 23.99 inches	\$ Per Stump
Removal Rate for Stumps 24 – 35.99 inches	\$ Per Stump
Removal Rate for Stumps 36 – 47.99 inches	\$ Per Stump
Removal Rate for Stumps 48 – 59.99 inches	\$ Per Stump
Removal Rate for Stumps Larger than 60 inches	\$ Per Stump

A-3-4. BACKFILL STUMP HOLES WITH CLEAN FILL DIRT – “UNIT PRICE RATE”:

The CONTRACTOR shall supply and install clean fill soil into holes created by the stump removal in the MDCPS sites, locations, grounds and/or right-of way areas.

\$	Per Cubic Yard
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TOWN OF BROOKFIELD ; HAZARD TREE REMOVAL RFP

2018-02

VENDOR INFORMATION CONTACT SHEET

COMPANY INFORMATION (print)			
Company Name:		Vendor #:	
Address:		City:	State: Zip Code:
Telephone #: ()		Fax #: ()	
E Mail Address:			

PRIMARY CONTACT (print)	
Primary Name:	Title:
Telephone #: ()	Fax #: ()
Cellular #: ()	Cellular #: ()
E Mail Address:	

SECONDARY CONTACT PERSON (print)	
Secondary Name:	Title:
Telephone #:	Fax #:
Cellular #: ()	Cellular #: ()
E Mail Address:	

Additional CONTACT PERSON (print)	
Additional Name:	Title:
Telephone #: ()	Fax #: ()
Cellular #: ()	Cellular #: ()
E Mail Address:	

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: _____

APPENDIX - INSURANCE REQUIREMENTS
--

Each bidder and/or Contractor shall comply with the following Insurance Obligations :
Bidder / Contractor shall at all times carry and maintain at the bidder/contractors sole expense, on all operations hereunder, the following insurance **with the Town of Brookfield and Brookfield Public Schools being expressly and explicitly named and listed as an Additional Insured** :

The Certificate of Insurance for the Limits of Liability stated below should be submitted with your bid or proposal or e-mailed to the Purchasing Department (or receiving Dept) at Town Hall.
Bidders may not perform any work until all insurance requirements are met.

1. **A Comprehensive General Liability Insurance** as will protect him, the Town, and any subcontractor performing work covered by this Contract, from claims for damages for personal injury, including accidental or wrongful death, as well as claims for property damages, which may arise from operations under this Contract whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them. Liability insurance shall include premises and operations, products, contractual, owners, and contractors protective. The minimum amounts of such insurance shall be as follows:
 - Bodily Injury Liability and Property Damage Liability:
\$1,000,000 each occurrence.
 - **The Town shall be named as an Additional Insured**
This **MUST** be stated explicitly on the Certificate or you may be **Disqualified**
2. **Worker's Compensation Insurance and Employer's Liability** for all of his employees, employed at the site and in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all employees of the later unless such employees are covered by the protection afforded by the Contractor.
 - Worker's Compensation and Employer Liability:
Statutory Limits
3. **Comprehensive Auto Liability Insurance:**
 - **Bodily Injury Insurance and Property Damage Insurance** covering the operation of all Motor Vehicles owned, hired and/or non-owned by the Contractor, or used by the Contractor in the Prosecution of the work under the Contract, shall be in the minimum of **\$1,000,000 each occurrence.**

All policies relating to this Contract shall be so written so that the Town shall be notified of cancellation or change at least thirty (30) days prior to the effective date for each policy and type of coverage except for nonpayment which shall be ten (10) days prior to the cancellation.

Renewal certificate covering the renewal of all policies expiring during the life of the Contract shall be filed with the Town not less than ten (10) days before the expiration of such policies. Failure to do so will result in work stoppage and possible contract cancellation.

Agents may E-Mail to : gayj@brookfield ps.org

NON-COLLUSION AFIDAVIT

Hazardous Tree removal

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)

Town of Brookfield

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

Sample PERFORMANCE BOND Document
May be required upon award prior to any work performed

RFP # 2018-02

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

Sample PERFORMANCE BOND Document :
May be required upon award prior to any work performed

RFP # 2018-02

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:

By submitting a proposal the Proposer hereby certifies to conform to all FEMA Contract requirements of 200.326 and Appendix II as listed herein and as applicable.

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.
- 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.”