

REQUEST FOR PROPOSAL

**NUMBER
RFP #17-ES-010**



City of Edgewater

EMERGENCY DEBRIS MONITORING SERVICES

***Pat Drosten
Purchasing Specialist***

LEGAL NOTICE

Notice is hereby given that the City of Edgewater is accepting Sealed Proposals for Emergency Debris Monitoring Services. Proposals will be received until **3:00 p.m., on June 20, 2017** by the City Clerk's Office, City Hall, 104 N. Riverside Drive, Edgewater, Florida 32132.

RFP 17-ES-010 "EMERGENCY DEBRIS MONITORING SERVICES"

Services to be provided shall include, but not be limited to the following: **RFP 17-ES-010 - EMERGENCY DEBRIS MONITORING SERVICES** in accordance with the terms, conditions, and specifications herein.

The City of Edgewater has issued this Request for Proposal (hereinafter, "**RFP**") with the sole purpose and intent of obtaining proposals from qualified and licensed firms for Emergency Debris Monitoring Services.

☐ A pre-bid conference is not applicable for this solicitation.

A ☒ non-mandatory ☐ mandatory pre-bid conference will be held on May 23, 2017, commencing promptly at 10:00am, and will be held in the Council Chambers, 104 N. Riverside Drive, Edgewater, Florida 32132.

If this pre-bid conference is denoted as "mandatory", prospective proposers must be present in order to submit a bid response.

One (1) original and one (1) electronic copy on a flash drive, of the proposal should be delivered to the City Clerk's Office, City of Edgewater, 104 North Riverside Drive, P.O. Box 100, Edgewater, Florida 32132-0100 in a sealed envelope plainly marked on the outside: **"EMERGENCY DEBRIS MONITORING SERVICES", RFP # 17-ES-010.**

All statements shall be made upon the official bid form which may be obtained on the City's E-Procurement site: www.demandstar.com.

City of Edgewater does not discriminate based on age, race, color, sex, religion, national origin, disability or marital status.

This Public Notice has been posted on the City of Edgewater Finance website: www.cityofedgewater.org, www.demandstar.com, and also posted in the Lobby of City Hall on May 16, 2017.

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REQUEST FOR PROPOSALS
RFP 17-ES-010
“EMERGENCY DEBRIS MONITORING SERVICES”

1) Introduction/Overview

A. Purpose/Objective

The City of Edgewater has issued this Request for Proposal (hereinafter, “**RFP**”) with the sole purpose and intent of obtaining proposals from qualified and licensed firms for Emergency Debris and Monitoring Services. The firm awarded this contract must meet or exceed all terms, conditions and specifications of the City of Edgewater. The successful proposer will hereinafter be referred to as the “Contractor”.

If awarded, a contract to provide these services will be effective on the date contract is approved by the City of Edgewater, City Council (herein after, the “Council”), signed by all required parties and filed with the City Clerk.

As is more fully explained in Section “6L” of this **RFP**, an award, if made, will be made to the best overall proposer(s) whose bid is most advantageous to the City, taking into consideration the evaluation factors set forth in this **RFP**. The City will not use any other factors or criteria in the evaluation of the bids received.

B. Background

The City serves an area of 22.44 square miles with a population of approximately 21,394. The City’s fiscal year begins on October 1st and ends on September 30th. The Finance Department maintains the funds and accounts of the City. The Finance Department is responsible for the custody and accounting of funds of each department.

More detailed information on the government and its finances can be found in City of Edgewater’s Comprehensive Annual Financial Report for fiscal year 2013-2014 and in the City’s Annual Budget for fiscal year 2015-2016. Copies of these documents may be viewed on www.cityofedgewater.org. The City of Edgewater is exempt from any and all state, local and federal taxes.

C. Inquiries

Direct questions related to this **RFP** to Pat Drosten, Purchasing Specialist, and submit such questions in writing to pdrosten@cityofedgewater.org. Please include the page and paragraph number for each question in order to ensure that questions asked are responded to correctly.

Proposers must clearly understand that the only official answer or position of the City will be the one stated in writing from pdrosten@cityofedgewater.org. All questions asked, along with the answers rendered will be electronically distributed to firms registered for this solicitation and additionally posted on the City website (www.cityofedgewater.org) and on DemandStar (www.demandstar.com).

D. Method of Source Selection

The City is using the Competitive Sealed Proposals methodology of source selection for this procurement, as authorized by Resolution 2016-R-33 establishing and adopting the City Purchasing Policy. Each proposal will be reviewed to determine if the proposal is responsive to the **RFP**. Proposals deemed to be non-responsive may be rejected without being evaluated by the Evaluation Committee appointed by the city manager, which shall be comprised of a minimum of three (3) evaluators. The committee will make a recommendation to the City Council who will make the final selection(s). A responsive proposal is one which has been signed and submitted by the specified Proposal deadline, and has provided the information required to be submitted with the Proposal. While poor formatting, poor documentation and/or incomplete or unclear information may not be cause to reject a

proposal without evaluation, such substandard submissions may adversely impact the evaluation of a Proposal. Respondents who fail to comply with the required and/or desired elements of this **RFP** do so at their own risk. The City may, as it deems necessary, conduct discussions with responsible proposers determined to be in contention for being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to solicitation requirements.

E. Pre-Bid Conference

☐ A pre-bid conference is not applicable for this solicitation.

A ☒ non-mandatory ☐ mandatory pre-bid conference will be held on May 23, 2017, commencing promptly at 10:00am, and will be held in the Council Chambers, 104 N. Riverside Drive, Edgewater, Florida 32132.

If this pre-bid conference is denoted as “mandatory”, prospective proposers must be present in order to submit a bid response.

The purpose of the pre-bid conference is to allow an open forum for discussion and questioning with City staff regarding the **RFP** with all prospective proposers having an equal opportunity to hear and participate. Oral questions will receive oral responses, neither of which will be official, nor become part of the **RFP**. Only written responses to written questions will be considered official, and will be included as part of the **RFP** as an addendum.

All prospective proposers are strongly encouraged to attend, as, unless requested by the department, this will be the only pre-bid conference for this solicitation. If this pre-bid conference is denoted as “mandatory”, prospective proposers must be present in order to submit a bid response.

F. Projected Timetable

The following projected timetable should be used as a working guide for planning purposes only. The City reserves the right to adjust this timetable as required during the course of the **RFP** process.

Event	Date
Issue RFP Notice	May 16, 2017
Non-Mandatory Pre-Bid Meeting	May 23, 2017 10:00 am
Last Date for Receipt of Written Questions	May 30, 2017 3:00 pm
Addendum Issued (If Applicable)	June 6, 2017
Proposal Due/ Opening Date	June 20, 2017 3:00 pm
Evaluation Committee	June 27, 2017 10:00 am
Notice of Recommendation	June 28, 2017
City Council Hearing Date	July 17, 2017

2) General Description of Specifications or Scope of Work

The City is seeking proposals from qualified and licensed firms for Emergency Debris Monitoring Services. The firm awarded this contract must meet or exceed all terms, conditions and specifications of the City of Edgewater. The successful proposer will hereinafter be referred to as the “Contractor”.

Scope of Services

DEBRIS LOADING SITE MONITORS, TEMPORARY DEBRIS STORAGE AND REDUCTIONS SITE (TDSRS) MONITORS, DISPOSAL SITE MONITORS, ROVING DEBRIS MONITORS, FIELD SUPERVISOR(S) AND PROJECT MANAGER.

2-1.0 GENERAL

- 2-1.1 The City of Edgewater requires the support of contract debris monitors following a debris-generating event such as a hurricane, storm or other catastrophic event. The contract monitors are necessary to assure Federal agencies emergency plan and debris removal contract requirements are met by monitoring the debris removal from public access roads, rights-of-way and public property, and the debris management sites, and to assure the debris management plan and contracts are effectively and efficiently implemented. The City will assign a Debris Operations Supervisor and will establish and staff a Debris Operations Base, which will provide overall coordination with the Debris Removal Contractor and the Debris Monitoring Contractor.
- 2-1.2 Within forty-eight (48) hours of notification, the Debris Monitoring Contractor shall provide adequate number of professionals and qualified personnel to monitor approximately twenty (20) debris-loading sites, and three (3) debris management sites along with associated roving debris monitors. Additional sites as determined by the City may be added as debris removal efforts increase. The Debris Monitoring Contractor will be required to increase its staffing from this point depending on the severity of the debris-generating event. Likewise, as the debris removal process progresses, monitor staffing requirements, as determined by the City, may fluctuate. The Debris Monitoring Contractor must be prepared to provide debris monitors seven (7) days a week for a minimum of a twelve (12) hour shift.
- 2-1.3 As a part of this proposal, the Debris Monitoring Contractor must indicate and explain how they plan to supply adequate personnel to support this scope of work, and must describe how they would hire additional personnel to meet the needs of the City.
- 2-1.4 All monitors provided by the Debris Monitoring Contractor must speak fluent English, have moderate public relations skills, be a minimum of eighteen (18) years of age, and have a valid driver's license issued in the United States and a reliable vehicle. The monitor's vehicle must be acknowledged and covered under the Debris Monitoring Contractor's insurance for collision and liability. In addition, monitors must be capable of working in an outside environment, and be able to climb a staircase or ladder of ten (10) feet in height. Monitors will be required to maintain daily logs of the Debris Removal Contractor's activities and must have adequate writing skills.
- 2-1.5 The Debris Monitoring Contractor warrants all services shall be performed by skilled and competent personnel to the highest professional standards in the field. The Debris Monitoring Contractor shall remove from the contract any person the City deems incompetent, careless or otherwise objectionable. Any changes or substitutions in personnel must be made known to the Debris Operations Supervisor.
- 2-1.6 The Debris Monitoring Contractor will provide debris monitors who have the means to communicate via cell phone with the Debris Operations Base, and be able to remain in constant contact with the Debris Operations Supervisor. Debris monitoring personnel must have adequate transportation to and from the debris monitoring sites.
- 2-1.7 The Debris Monitoring Contractor will provide hardhats, safety vests, eye protection, and all other required protective equipment for its employees and/or subcontractors.
- 2-1.8 Equipment (not including transportation) necessary to document the removal of eligible debris from public access roadways, public rights-of-ways, and public property will be supplied by the Contractor.
- 2-1.9 The Contractor will be responsible for the training of its debris monitors. All monitors must be familiar with the Debris Monitoring Contract before initially reporting for work. Field assignment of debris monitors will be at the discretion of the City's Debris Operations

Supervisor. Monitors must be prepared to rotate among the debris sites and supply any monitoring needs deemed necessary by the City.

2-2.0 LOADING SITE MONITORING SERVICES

- 2-2.1 The primary function of the Loading Site Monitors is to issue debris load capacity tickets for eligible debris cleared and removed at locations designated by the Debris Operations Base.
- 2-2.2 The requirements for monitors expressed in Section 2-1.0 apply for Loading Site Monitors.
- 2-2.3 The Loading Site Monitor will be assigned a debris removal crew to accompany and will be given a load capacity form to complete. The completed form validates where the event-generated debris originated and substantiates the capacity of the crew's truck/trailer, the debris type, and eligibility. Load capacity tickets will be issued in accordance with established procedures, and as a minimum, must contain the crew's truck number, street address, date and type of debris, time of loading, the load capacity and the Loading Site Monitor's signature. The Loading Site Monitor's signature certifies the accuracy of the information documented, and the work performed by the Debris Removal Contractor's crew. The Loading Site Monitor must retain the necessary copies of the load capacity ticket to be returned to the Debris Operations Base at the end of each shift. If the Loading Site Monitor cannot attest to the veracity of the information documented, the work performed and the eligibility of the debris the monitor will not affix his/her signature to the form and will note the ticket for nonpayment, and will report the situation to the Debris Operations Supervisor. Failure to follow the proper monitoring procedures will result in dismissal of said monitor.

2-3.0 TDSRS MONITORING SERVICES

- 2-3.1 The primary function of the TDSRS Monitor is to complete the load capacity ticket received from the debris removal crew, and to estimate the volume of debris transported to the temporary debris management site for processing and storage. The TDSRS Monitor will also document and quantify the processed outgoing debris.
- 2-3.2 The requirements for monitors expressed in Section 2-1.0 apply for TDSRS Monitors.
- 2-3.3 For incoming debris, the TDSRS monitor will estimate the volume capacity by percentage for each truck and note arrival time. By signing the load capacity tickets, the TDSRS Monitor is estimating the quantity of debris, and attesting to the accuracy of the information documented, and the work performed. A signed and fully completed load capacity ticket is the basis for contract billings. The TDSRS Monitor must retain the necessary copies of the load capacity ticket to be returned to the Debris Operations Base at the end of each shift. If a TDSRS Monitor cannot attest to the integrity and totality of the information documented, the work performed and the eligibility of the debris, the monitor will not affix his/her signature to the form, and will log the ticket for nonpayment and report the situation to the Debris Operations Supervisor. Failure to follow the proper monitoring procedures will result in dismissal of said monitor.
- 2-3.4 For outgoing processed debris, the TDSRS Monitor will complete a processed debris ticket with the following information; date, time of departure, type of debris, truck driver name, truck number, prime and subcontractor name, and the TDSRS site name. The TDSRS Monitor will estimate the volume capacity by percentage for each truck and affix his/her signature attesting to the veracity of the information. The TDSRS Monitor must retain the necessary copies of the outgoing debris ticket to be returned to the Debris Operations Base at the end of each shift.
- 2-3.5 The City is responsible for resolving issues with the Debris Removal Contractor's crews and other Debris Removal Contractor's personnel.

2-4.0 ROVING DEBRIS MONITOR SERVICES

- 2-4.1 The function of the Roving Debris Monitors is to verify only eligible debris is being removed from designated public rights-of-ways, and public property within assigned debris pickup zones in the City of Edgewater. The Roving Debris Monitors, at the discretion of the City, may supply any other monitoring needs deemed necessary by the City such as truck volume certification, emergency road clearing, and various debris removal operations.
- 2-4.2 The requirements for monitors expressed in Section 2-1.0 apply for Roving Debris Monitors.
- 2-4.3 The Roving Debris Monitor will complete the following information on each debris removal form; the street address and/or Global Positioning Coordinates (GPS) for each debris removal item, the crew number, diameter size of the debris removal item and any future information the reimbursing federal agency may require. The Roving Monitor will also take photos explicitly showing the description and location of each removal. The Roving Monitor signature on the form verifies the work has been performed by the Debris Removal Contractor, and the debris is eligible. The Roving Monitor must retain the necessary copies of the debris removal form to be returned to the Debris Operations Base at the end of their shift. If the Roving Monitor cannot attest to the accuracy of the information documented, the work performed and the eligibility of the debris, the monitor will not affix his/her signature to the form and will tag the ticket for nonpayment and report the situation to the Debris Operations Supervisor. Failure to follow the proper monitoring procedures will result in dismissal of said monitor.

2-5.0 DISPOSAL SITE MONITORS

- 2-5.1 The function of the Disposal Site Monitor is to estimate the volume of the incoming debris load on a percentage basis, and to audit the accuracy and totality of the associated debris ticket.
- 2-5.2 The requirements for monitors expressed in Section 2-1.0 apply for Disposal Site Monitors.
- 2-5.3 For every incoming Debris Removal Contractor vehicle, the Disposal Site Monitor will indicate the estimated volume capacity by percentage arrival time, date and the disposal facility. The Disposal Site Monitor's signature on the form verifies receipt and quantity of the debris at the final disposal site. A signed and fully completed disposal ticket is the basis for contract billings. The Disposal Site Monitor must retain the necessary copies of the disposal ticket to be returned to the Debris Operations Base at the end of each shift. If a Disposal Site Monitor cannot attest to the integrity and totality of the information documented, the work performed and the eligibility of the debris, the Monitor will not affix his/her signature to the form, and will log the ticket for nonpayment and report the situation to the Debris Operations Supervisor. Failure to follow the proper monitoring procedures will result in dismissal of said monitor.
- 2-5.4 The Monitor will visually observe all of the Debris Removal Contractor debris vehicles entering the Disposal facility and will ensure all vehicles exit void of debris.

2-6.0 OPERATIONAL REQUIREMENTS

2-6.1 General Operating Procedures:

The City will retain a Debris Removal Contractor(s) to remove, transport, process, and dispose of disaster-generated debris from the public access roadways, rights-of-ways, and public property within the City of Edgewater. Each load of eligible debris shall be tracked using multi-page load capacity ticket. The Debris Operations Base shall provide the load capacity tickets. The following guidance provides the basic procedure for completing the load capacity tickets. Revised procedures, if necessary, may be established by the Debris Operations Base and shall be followed by the Debris Monitoring Contractor in lieu of the following procedure.

2-6.2 Load capacity ticket:

The Debris Loading Site Monitor is responsible for providing the following information; location, 1st pass, 2nd pass, subsequent pass, FEMA Roadway, FHWA Roadway, time and date of loading, prime and subcontractor names, truck number, the truck driver's name, capacity in cubic yards and the debris classification. The Loading Site Monitor will sign his/her name in the INSPECTOR block for loading and will retain the necessary copies of the load capacity ticket, and provide the remaining copies to the truck driver. All load capacity tickets, used, unused, and voided must be turned in at the end of each shift. The Loading Site Monitor will maintain a log that contains the information required in Section 2-7.2 of this Scope of Work. If the debris is processed before final deposition, the TDSRS Monitor is accountable for completing the remaining sections of the load capacity ticket. The TDSRS Monitor will not affix his/her signature if the initial loading section of the ticket is incomplete, and will note the ticket number for nonpayment. After verifying the required information is present, the TDSRS Monitor, located in the inspection tower, will estimate the volume of debris contained in the truck or trailer by percentage. Each truck or trailer must have the measured size in cubic yards recorded on the side of the truck or trailer. The TDSRS Monitor will verify the recorded truck or trailer size with the capacity stated on the load capacity ticket, and the type of debris indicated. If any discrepancies occur, the Monitor will not affix his/her signature, and will not report the ticket for nonpayment.

For outgoing reduced debris from the debris management site, the TDSRS Monitor will indicate on the ticket, the type of debris, the name of the debris management site, the departure time of the truck, date, the truck driver's name, truck number, the prime and subcontractor name, the capacity of the truck and will estimate the volume of debris. The TDSRS Monitor will sign his/her name in the INSPECTOR block for loading and will retain the necessary copies to the truck driver. All load capacity tickets, used, unused, and voided must be turned in at the end of each shift. The TDSRS Monitor will maintain a log that contains the information required in Section 2-7.3 of this Scope of Work.

For debris hauled directly to the disposal site, the Disposal Site Monitor will first validate the truck number recorded capacity and type of debris noted on the debris ticket provided by the driver, with the incoming debris vehicle. The Monitor will complete the name of the disposal facility, the arrival time of the truck, and estimate the volume of material contained within the bed of the truck or trailer. The estimated volume will be recorded on the load capacity ticket in the trailer. The estimated volume will be recorded on the load capacity ticket in the DEBRIS QUANTITY ESTIMATE (%) field, and the Disposal Site Monitor will sign his/her name in the INSPECTOR block for dumping. The Disposal Site Tower Monitor's copies will be turned in to the City's Debris Operations Supervisor at the end of each shift. All load capacity tickets, used, unused, and voided must be turned in at the end of each shift. The original load capacity ticket is the basis for contract billing. The Disposal Site Tower Monitor will maintain a log that contains the information required in Section 2-7.5 of this Scope of Work.

2-6.3 Operational Requirements of Roving Debris Monitors:

Under the direction of the City, the Debris Removal Contractor will also provide various debris removal services such as hazardous stump, hanging limb, and tree removal, and emergency road clearing. The Roving Debris Monitor will ensure only eligible debris from the public access roads, public right-of-ways, and public property is removed by the Debris Removal Contractor. The Roving Debris Monitor is responsible for completing the following information on each debris removal form; the street address and/or Global Positioning Coordinates (GPS) for each debris removal item, the crew number, diameter size of the debris removal item, and the Roving Monitor signature which verifies the work has been performed by the Debris Removal Contractor. The Roving Monitor will also take photographs explicitly showing the description and location of each removal to be provided in a digital format. Photographs will be submitted at the end of each shift in electronic format with a log stating the location and ticket number of the

removed item. All forms under this scope of work will be provided by the Debris Operations Base.

The Roving Debris Monitor will maintain a log that contains the information required in Section 2-7.7 of this Scope of Work. The Roving Debris Monitor will retain the necessary copies of the debris removal form, and the remaining copies will be given to the crew foreman. At the end of each shift, the Roving Debris Monitor will submit their copies to the Debris Operations Supervisor. All debris removal tickets, used, unused and voided must be turned in at the end of each shift. All Contractor debris removal forms are controlled forms and must not be duplicated. The original debris removal form is the basis for contract billing by the Debris Removal Contractor.

2-7.0 REPORTING

2-7.1 The Loading Site Monitor will turn in the copies of the load capacity ticket and their daily log to the Debris Operations Supervisor at the end of each shift. All load capacity tickets, used, unused and voided must be turned in at the end of each shift.

2-7.2 The Loading Site Monitor will also maintain a daily log that contains the following information:

- a) Loading location
- b) Loading Site Monitor's name
- c) Number of load capacity tickets issued during shift
- d) Starting and ending load capacity ticket numbers
- e) Property damage and Contractor induced damages
- f) Crew number
- g) Any problems encountered

2-7.3 The TDSRS Monitor will turn in their copies of the load capacity ticket and their daily log to the Debris Operations Supervisor at the end of each shift. All load capacity tickets, used, unused and voided must be turned in at the end of each shift.

The TSDRS Monitor will maintain a daily log that contains the following information:

- a) TDSRS site
- b) TDSRS Tower Monitor's name
- c) Truck/trailer number and volume of debris hauled into site
- d) Truck/trailer number and volume of debris hauled out of the site
- e) Any problems encountered

2-7.4 The Disposal Site Tower Monitor will turn in their copies of the load capacity ticket and their daily log to the Debris Operations Supervisor at the end of each shift. All load capacity tickets, used, unused and voided must be turned in at the end of each shift.

2-7.5 The Disposal Site Tower Monitor will maintain a daily log that contains the following information:

- a) Disposal site
- b) Disposal Site Tower Monitor's name
- c) Truck/trailer number and volume of debris hauled into site
- d) Any problems encountered

2-7.6 The Roving Debris Monitor will turn in their copies of the debris removal form, photos, and their daily log to the Debris Operations Supervisor at the end of each shift. All debris removal tickets,

used, unused and voided must be turned in at the end of each shift.

- 2-7.7 The Roving Debris Monitor will maintain a daily log that contains the following information:
- a) Site quadrant
 - b) Roving Monitor's Name
 - c) Debris Crew Number
 - d) Property damage and Contractor induced damages
 - e) Any problems encountered
- 2-7.8 The Debris Monitoring Supervisor/Program Manager shall provide all daily timesheets to the City upon request.

2-8.0 SAFETY

- 2-8.1 All Debris Monitoring Contract personnel must wear safety equipment whenever on a debris management site. Contract personnel must adhere to all debris management site safety requirements and OSHA Regulations.

2-9.0 OTHER CONSIDERATIONS

- 2-9.1 The Debris Monitoring Contractor shall be responsible for paying any and all costs associated with violations of law or regulation relative to the Contractor's activities.
- 2-9.2 The Debris Monitoring Contractor will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.
- 2-9.3 The Debris Monitoring Contractor shall abide and operate under the following federal acts, regulations and requirements:
- FHWA Form 1273, titled Standard Federal-aid Provisions, must be physically incorporated (not referenced) into all prime and subcontractor contracts.
 - Davis-Bacon Wages Act – waived for Debris Removal services only; applies to all other work types <http://www.fhwa.dot.gov/construction/cqit/dbacon.cfm>
 - Buy America
 - Disadvantaged Business Enterprises (DBE)
 - Americans with Disability Act (ADA)
 - Convict Labor Prohibition
- 2-9.4 Debris removal work and the associated monitoring service on Federal Highway (FHWA) roads must be bifurcated from non-FHWA roads. The Debris Monitoring Contractor will provide separate invoices for services on such indicated roads. Current listing of FHWA roads will be provided prior to engagement of work.

2-10.0 PAYMENT

- 2-10.1 The hourly rates shall include all costs, all applicable overhead, taxes, benefits, handling charges, and profits. No travel expenses, mileage, per diem, meals, rental cars and or lodging will be paid by the City.
- 2-10.2 All requests for payment under this contract shall identify the positions, hourly rates and the specific individual for which the billing applies. Labor summaries with daily costs per monitor will be supplied with the FHWA portion indicated. The Contractor will invoice the City on a monthly basis.

- 2-10.3 Invoices received from the Contractor pursuant to this Contract will be reviewed and approved by the City, indicating services have been rendered in conformity with the Contract. Invoices will be paid in accordance with the State of Florida Prompt Payment Act.

2-11.0 SUBCONTRACTORS

- 2-11.1 The successful bidder shall not employ subcontractors without the advance written permission of the City.

3) City's Right to Inspect

The City or its authorized Agent shall have the right to inspect the Contractor's facilities/project site during and after each work assignment the Contractor is performing.

4) Terms and Conditions of Contract

The initial term of this contract shall be through November 30, 2020 or until any such time as all outstanding purchase orders issued prior to the expiration of the Agreement period have been completed. This agreement may be renewed for an additional three (3) years, renewable annually. Any such annual renewal shall be agreed to, in writing, by both parties.

The City has developed standard contracts/agreements. The selected Contractor shall submit a signed copy of the contract attached with this document as a part of the bid submittal. Contract will become effective once City Council approves and authorizes the City Manager to execute said contract.

A contract(s) resulting from this RFP shall be subject to the terms and conditions set forth in a standard City Contract. The City reserves the right to include in any contract document such terms and conditions, as it deems necessary for the proper protection of the rights of the City. The City will not be obligated to sign any contracts, maintenance and/or service agreements or other documents provided by the Contractor.

4.1 Quantity

Estimated quantity of material to be disposed of is 50,000 cubic yards of yard debris, and 100 tons of construction & demolition debris and white goods. This is an estimation using data from the previous major events and could vary vastly.

5) General Terms and Conditions

A. Licenses

The Contractor is required to possess the correct Business Tax Receipts, professional license, and any other authorizations necessary to carry out and perform the work required by the project pursuant to all applicable Federal, State and Local Law, Statute, Ordinances, and rules and regulations of any kind.

Copies of the required licenses must be submitted with the Proposal response indicating that the entity proposing, as well as the team assigned to the City account, is properly licensed to perform the activities or work included in the contract documents. A Contractor, with an office within the City is also required to have a business tax receipt and certificate of use.

If you have questions regarding required professional licenses and Business Tax Receipt and Certificate of use, contact the Finance Department, (386) 424-2400.

B. Principals/Collusion

By submission of this Proposal, the undersigned, as Proposer, does declare that the only person or persons interested in this Proposal as principal or principals is/are named therein and that no person other than therein mentioned has any interest in this Proposal or in the contract to be entered into; that this Proposal is made without connection with any person, company or parties making a Proposal, and that it is in all respects fair and in good faith without collusion or fraud.

C. Taxes

The City is exempt from Federal Excise and State of Florida Sales Tax.

D. Relation of City

It is the intent of the parties hereto that the Contractor shall be legally considered an independent contractor, and that neither the Contractor nor their employees shall, under any circumstances, be considered employees or agents of the City, and that the City shall be at no time legally responsible for any negligence on the part of said Contractor, their employees or agents, resulting in either bodily or personal injury or property damage to any individual, firm, or corporation.

E. Term Contracts

If funds are not appropriated for continuance of a term contract to completion, cancellation will be accepted by this Contractor on thirty (30) days prior written notice.

F. Termination

Should the Contractor be found to have failed to perform his services in a manner satisfactory to the City, the City may terminate this Agreement immediately for cause; further the City may terminate this Agreement for convenience with a thirty (30) day written notice. The City shall be sole judge of non-performance.

G. Liability

The Contractor will not be held responsible for failure to complete contract due to causes beyond its control, including, but not limited to, work stoppage, fires, civil disobedience, riots, rebellions, Acts of Nature and similar occurrences making performance impossible or illegal.

H. Assignment

The Contractor(s) shall not assign, transfer, convey, sublet or otherwise dispose of this contract, or of any or all of its rights, title or interest therein, or his or its power to execute such contract to any person, company or corporation without prior written consent of the City.

I. Lobbying

All firms are hereby placed on **NOTICE** that the City does not wish to be lobbied, either individually or collectively about a matter for which a firm has submitted a Proposal.

Firms and their agents are not to contact members of the City Council for such purposes as meeting or introduction, luncheons, dinners, etc. During the process, **from time of advertisement to final Council approval**, no firm or their agent shall contact any other employee of the City in reference to this Proposal, with the exception of the Finance Director or his designee(s). Failure to abide by this provision may serve as grounds for disqualification for award of this contract to the firm.

J. Single Proposal

Each Proposer must submit, with their proposal, the required forms included in this RFP. Only **one** proposal from a legal entity as a primary will be considered. A legal entity that submits a proposal as a primary or as part of a partnership or joint venture submitting as primary may not then act as a sub-consultant to any other firm submitting under the same RFP.

All submittals in violation of this requirement will be deemed non-responsive and rejected from further consideration.

K. Protest Procedures

Any appeal or protest to the Request for Proposal shall be governed by the City of Edgewater's Purchasing Policies and Procedures.

L. Public Entity Crime

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity for a period of 36 months following the date of being placed on the convicted vendor list.

M. Conflict of Interest

Proposer shall complete the Conflict of Interest Affidavit included as an attachment to this RFP document.

Disclosure of any potential or actual conflict of interest is subject to City staff review and does not in and of itself disqualify a firm from consideration.

These disclosures are intended to identify and or preclude conflict of interest situations during contract selection and execution.

N. Prohibition of Gifts to City Employees

No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any City employee, as set forth in Chapter 112, Part III, Florida Statutes, the current City Ethics Ordinance, and City Administrative Policy. Violation of this provision may result in one or more of the following consequences: a. Prohibition by the individual, firm, and/or any employee of the firm from contact with City staff for a specified period of time; b. Prohibition by the individual and/or firm from doing business with the City for a specified period of time, including but not limited to: submitting bids, RFP, and/or quotes; and, c. immediate termination of any contract held by the individual and/or firm for cause.

O. Immigration Reform and Control Act

Proposer acknowledges, and without exception or stipulation, any firm(s) receiving an award shall be fully responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et. seq. and regulations relating thereto, as either may be amended. Failure by the awarded firm(s) to comply with the laws referenced herein shall constitute a breach of the award agreement and the City shall have the discretion to unilaterally terminate said agreement immediately.

P. Equal Opportunity

The City recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women business enterprises.

Q. Florida Public Records Act

All material submitted regarding this RFQ becomes the property of the City. RFQ documents may be reviewed by any person ten (10) days after the public opening. The Professional Consultant should take special note of this as it relates to any proprietary information that might be included in its offer. Any resulting contract may be reviewed by any person after the contract has been executed by the City. The City has the right to use any or all information/material submitted in response to this RFQ and/or any resulting contract from same. Disqualification of a Professional Consultant does not eliminate this right. This section is further subject to F.S. 119.01 and 119.0701 et. seq.

R. Definitions

As used in this RFP, the following terms shall have the meanings set forth below:

City: City of Edgewater

Contractor: The Contractor is a person or entity which includes employees, partners, principals, agents and assignees who are a party to this agreement for the purpose of providing services.

Debris: Debris is scattered items and materials broken, destroyed, or displaced which is generated by an event and is located within a designated area.

Debris Collection Monitor: Employee of the Contractor who observes the Debris Removal Contractor removing debris from assigned areas.

Debris Management Plan: The plan establishes policies, procedures, and guidelines for recovery from debris generating disaster events.

Debris Removal Contractor: A person or entity, including employees, partners, principals, agents and assignees that are under contract with the Department to remove storm deposited debris according to federal and state guidelines.

Disposal Site Monitor: A Disposal Site Monitor is the designated Contractor's employee(s) assigned to the debris disposal site to manage disposal operations and monitor debris removal contractor's performance. The duties include, but are not limited to, ensuring the debris is eligible, to quantify and accurately document debris loads consistent with FEMA and FHWA guidelines.

City Debris Manager: A City staff member who functions as the City point of contact and is responsible for providing overall supervision of debris clearance, removal, and disposal operations.

Emergency Operations Center (EOC): An emergency operations center, or EOC, is a central command and control facility responsible for carrying out the principles of emergency preparedness and emergency management, disaster management functions at a strategic level in an emergency situation.

Federal Emergency Management Agency (FEMA): FEMA is a funding source to the City for activities during an event declared a disaster by the President of the United States. FEMA eligible debris removal is second and subsequent passes on FHWA roadways and other roadways not on the federal aid system.

Federal Highway Administration (FHWA): FHWA, through the Emergency Relief program administered by the Department, is a federal funding source for the work on Federal-Aid roadways and facilities. FHWA has designated federal aid roadways also known as “on-system” roadways that are eligible for Emergency Relief funding.

Field Supervisor: A person designated by the Contractor who has the ability to manage the Site Monitors effectively and who reports to the Project Manager.

Notice to Proceed (NTP): This is a written notice issued to the Contractor by the City fixing the date on which operations outlined will commence.

Project Manager (City): The Project Manager is a Consultant who functions as the point of contact for the Contractor and is responsible for the overall project management and coordination of the debris monitoring services required to oversee the debris removal operations.

Project Manager (Contractor): The Project Manager is an employee of the Contractor who functions as the point of contact for the City and is responsible for the overall project management and coordination of the debris monitoring services required to oversee the debris removal operations.

Temporary Debris Storage & Reduction Sites (TDSRS): A Florida Department of Environmental Protection permitted site where debris is stored, reduced, burned, grinded, or sorted. Debris resides at the site for a relatively short period of time prior to final disposal during the debris management process

6) Instructions for Proposal

A. Compliance with the RFP

Proposals must be in strict compliance with this RFP. Failure to comply with all provisions of the RFP may result in disqualification.

B. Acknowledgment of Insurance Requirements

By signing the Insurance Requirements included in this RFP, Proposer acknowledges these conditions include Insurance Requirements.

It should be noted by the Proposer that, in order to meet the City's requirements, there may be additional insurance costs to the Proposer's firm. It is, therefore, imperative that the proposer discuss these requirements with the Proposer's insurance agent, as noted on the Insurance Check List, so that allowances for any additional costs can be made by the Proposer.

The Proposer's obligation under this provision shall not be limited in any way by the agreed upon contract price, or the Proposer's limit of, or lack of, sufficient insurance protection.

Proposer also understands that the evidence of required insurance may be required within five (5) business days following notification of its offer being accepted; otherwise, the City may rescind its acceptance of the Proposer's Bid.

The specific insurance requirements for this solicitation are included as part of this solicitation.

C. Acknowledgment of Bonding Requirements

By signing its Proposal, and if applicable, Proposer acknowledges that they have read and understand the bonding requirements for this Proposal. Requirements for this solicitation are checked.

☐ Not Applicable

☒ **Bid Bond:** Shall be submitted with Bid response in the form of certified funds, cashiers' check, or an irrevocable letter of credit, a cash bond posted with the City Clerk, or Bid bond in a of \$5,000.00. All checks shall be made payable to the City of Edgewater on a bank or trust company located in the State of Florida and insured by the Federal Deposit Insurance Corporation.

The Bid Bond shall be retained by the City as liquidated damages if the successful Proposer fails to execute and deliver to the City the unaltered contract, or fails to deliver any required Performance and Payment Bonds or Certificates of Insurance, all within twenty-one (21) calendar days after receipt of the Notice of Selection for Award. Bid Bonds shall be executed by a corporate surety licensed under the laws of the State of Florida to execute such bonds, with conditions that the surety will, upon demand, forthwith make payment to the City upon said bond. The Bid Bonds of the three (3) highest ranked Proposers shall be held until the contract has been executed by the successful Proposer and same has been delivered to the City together with the required bonds and insurance, after which all three (3) Bid Bonds shall be released to the respective Bidders. All other Bid Bonds shall be released within fourteen (14) calendar days of the Selection Committee meeting date. No Bids including alternates shall be withdrawn within one hundred and eighty (180) days after the Bid closing date thereof. If a Bid is not accepted within said time period it shall be deemed rejected and the Bid Bond shall be released to the Proposer. In the event that the City awards the contract prior to the expiration of the one hundred and eighty (180) day period without selecting any or all alternates, the City shall retain the right to subsequently award to the successful Proposer said alternates at a later time and approved by the Finance Director or designee, and the successful Proposer.

In lieu of a bid bond, the City will agree to increase the retainage withholding percentage to 20% versus the 10% standard.

☒ **Performance and Payment Bonds:** Bonds shall be submitted with the executed contract by Proposers receiving award, and written for 100% of the Contract award amount, the cost borne by the Proposer receiving an award. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.

Should the contract amount be less than \$500,000, the requirements of Section 287.0935, F.S. shall govern the rating and classification of the surety.

All performance security under the subsequent contract shall be in force throughout the final completion and acceptance of the project awarded.

If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the Owner's approval. **Bond shall be written to City of Edgewater.**

D. Delivery of Proposals

All Proposals are to be delivered before 3:00 p.m., local time, on or before June 20, 2017 to:

City of Edgewater
City Clerk
104 N. Riverside Drive
Edgewater, Florida 32132

The City shall not bear the responsibility for Proposals delivered to the City Clerk past the stated date and/or time indicated, or to an incorrect address by proposer's personnel or by the proposer's outside carrier. However, the City Clerk, or designee, shall reserve the right to accept Proposals received after the posted close time only under the following condition:

The tardy submission of the Proposal is due to the following circumstances, which shall include but not be limited to: late delivery by commercial carrier such as Fed Ex, UPS, DHL, or courier where delivery was scheduled before the deadline.

One (1) original and one (1) electronic copy on a flash drive, of the proposal should be delivered to the City Clerk's Office, City of Edgewater, 104 North Riverside Drive, P.O. Box 100, Edgewater, Florida 32132-0100 in a sealed envelope plainly marked on the outside: **"EMERGENCY DEBRIS MONITORING SERVICES", RFP # 17-ES-010.**

E. Evaluation of Proposals (Procedure)

The City's procedure for selecting is as follows:

1. The City Manager shall approve an Evaluation Committee to review all Proposals submitted in accordance with Statute. At a minimum there will be one member of the Finance Department as part of the evaluation committee. Plus there shall be a minimum of three members of the committee, but always an odd number.
2. Request for Proposals issued.
3. Subsequent to the closing of Proposals, the Purchasing Specialist and Project Manager shall review the Proposals received and verify whether each Proposal appears to be minimally responsive to the requirements of the published RFP. In instances where both the Purchasing Specialist and Project Manager be appointed to the committee as voting members, such meetings shall be open to the public and the Purchasing Specialist shall endeavor to publicly post prior notice of such meeting in the lobby of the City Hall three (3) days in advance of all such meetings, but no less than (1) day in advance.
4. The committee members shall review each Proposal individually and score each Proposal based on the evaluation criteria stated herein.
5. Prior to the first meeting of the evaluation committee, the City Clerk will post a notice announcing the date, time and place of the first committee meeting. Said notice shall be posted in the lobby of the City Hall not less than three (3) working days prior to the meeting. The City Clerk shall also post prior notice of all subsequent committee meetings and shall post such notices at least one (1) day in advance of all subsequent meetings.
6. The committee will compile individual rankings, based on the evaluation criteria as stated herein, for each Proposal to determine committee recommendations. The committee may at their discretion, schedule presentations or demonstrations from the top-ranked firm(s), make site visits, and obtain guidance from third party subject matter experts. The final recommendation will be decided based on review of scores and consensus of committee.

The City reserves the right to withdraw this RFP at any time and for any reason, and to issue such clarifications, modifications, and/or amendments as it may deem appropriate.

Receipt of a Proposal by the City or a submission of a Proposal to the City offers no rights upon the Proposer nor obligates the City in any manner. Acceptance of the Proposal does not guarantee issuance of any other governmental approvals.

F. Ambiguity, Conflict, or Other Errors in the RFP

If a Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, Proposer shall immediately notify the Purchasing Specialist, noted herein, of such error in writing and request modification or clarification of the document. The Purchasing Specialist will make modifications by issuing a written revision and will give written notice to all parties who have received this RFP from the Finance Department.

The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the RFP prior to submitting the Proposal or it shall be waived.

G. Proposal, Presentation, and Protest Costs

The City will not be liable in any way for any costs incurred by any proposer in the preparation of its Proposal in response to this RFP, nor for the presentation of its Proposal and/or participation in any discussions, negotiations, or, if applicable, any protest procedures.

H. Acceptance or Rejection of Proposals

The right is reserved by the City to waive any irregularities in any Proposal, to reject any or all Proposals, to re-solicit for Proposals, if desired, and upon recommendation and justification by the City to accept the Proposal which in the judgment of the City is deemed the most advantageous for the public and the City.

Any Proposal which is incomplete, conditional, obscure or which contains irregularities of any kind, may be cause for rejection. In the event of default of the successful proposer, or their refusal to enter into the City contract, the City reserves the right to accept the Proposal of any other proposer or to re-advertise using the same or revised documentation, at its sole discretion.

I. Requests for Clarification of Proposals

Requests by the Purchasing Specialist to a proposer(s) for clarification of Proposal(s) shall be in writing. Proposer's failure to respond to request for clarification may deem proposer to be non-responsive, and may be just cause to reject its Proposal.

J. Validity of Proposals

No Proposal can be withdrawn after it is filed unless the Proposer makes their request in writing to the City prior to the time set for the closing of Proposals.

All Proposals shall be valid for a period of one hundred eighty (180) days from the submission date to accommodate evaluation and selection process.

K. Response Format

The Proposal shall be deemed an offer to provide services to the City. In submitting a Proposal, the Proposer declares that he/she understands and agrees to abide by all specifications, provisions, terms and conditions of

same, and all ordinances and policies of the City. The Proposer agrees that if the contract is awarded to him/her, he/she will perform the work in accordance with the provisions, terms and conditions of the contract.

To facilitate the fair evaluation and comparison of Proposals, all Proposals must conform to the guidelines set forth in this RFP.

Any portions of the Proposal that do not comply with these guidelines must be so noted and explained in the Acceptance of Conditions section of the Proposal. However, any Proposal that contains such variances may be considered non-responsive.

Proposals should be prepared simply and economically, providing a straightforward concise description of the Proposer's approach and ability to meet the City's needs, as stated in the RFP. All copies of the Proposal should be bound and tabbed. The utilization of recycled paper for Proposal submission is strongly encouraged.

The items listed below shall be submitted with each Proposal and should be submitted in the order shown. Each section should be clearly labeled, with pages numbered and separated by tabs. Failure by a proposer to include all listed items may result in the rejection of its Proposal.

1) Tab I, Management Summary

Provide a cover letter, signed by an authorized officer of the firm, indicating the underlying philosophy of the firm in providing the services stated herein. Include the name(s), telephone number(s), and email(s) of the authorized contact person(s) concerning Proposal. Submission of a signed Proposal is Proposer's certification that the Proposer will accept any awards made to him as a result of said submission of the terms contained therein.

2) Tab II, Qualifications

Provide a description and history of the firm focusing on the following:

- Experience in all aspects of debris monitoring of emergency management green waste hauling and disposal.
- Knowledge and experience with federal, State of Florida and local emergency agencies.
- Recent experience demonstrating debris monitoring activities.
- Experience demonstrating knowledge of environmental requirements.

3) Tab III, Technical Approach

- Provide a narrative description outlining the methods of mobilization/operation plans, operational structure and services to be provided. This description should fully and completely demonstrate the Respondents intended methods for servicing the requirements of the RFP.
- Respondents may offer alternative solutions/options to achieve successful completion of the scope of services detailed herein.

4) Tab IV, Acceptance of Conditions

Indicate any exceptions to the general terms and conditions of the RFP, and to insurance requirements or any other requirements listed in the RFP. If no exceptions are indicated in this tabbed section, it will be understood that no exceptions to these documents will be considered after the award, or if applicable, during negotiations.

5) Tab V – Documents

- Professional Certifications/Licenses

6) Tab VI - Required Forms

See Section 7 of this document

7) Tab VII – Price Proposal Form – (The form included in this RFP document must be used):

The proposal should provide the total, all inclusive, maximum fees for this project. The fee should include all direct and indirect costs including out of pocket expenses. If additional work is requested that is outside the Scope of Services of this project, the City of Edgewater reserves the right to negotiate a fixed fee for such services.

Calculation of points for cost will be completed as described in the following EXAMPLE. Lowest Cost Proposed with a weighted multiplier of 85% of an available 100% total value (85-points):

	PROPOSAL COST	LOWEST COST PROPOSED	% OF LOW	MULTIPLIER	TOTALPOINTS ASSIGNED
Company #1	\$100,000.00	\$100,000.00	100.0%	85	85.0
Company #2	\$108,000.00	\$100,000.00	92.6%	85	78.7
Company #2	\$120,000.00	\$100,000.00	83.3%	85	70.8

L. Proposal Evaluation Committee and Evaluation Factors

All proposals will be subject to a review and evaluation process. It is the intent of the City that all proposers responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process.

Proposals shall include all of the information solicited in this RFP, and any additional data that the Offeror deems pertinent to the understanding and evaluating of the proposal. Proposers will provide their best price and cost analysis and should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited. Each proposer will be ranked based on the criteria herein addressed.

Each Committee member will award points according to the Evaluation Criteria described in each Category for the Phase I and Phase II evaluation processes. The points indicated as “Points Possible” will be totaled to achieve the Total Points awarded to each Proposer. The greatest cumulative of Total Points will be ranked 1, the next greatest total ranked 2, etc. The ranking of each Proposer will be tabulated from each Committee member.

The factors to be considered in the evaluation of Proposal responses are listed below:

	Maximum Points
Experience and Expertise	20
Resources and Methodology – (Resources, Creative Ability and Approach)	20
Previous Projects (including References)	20
Current contracts and ability to respond to the needs of the City with sufficient personnel and in a timely manner	20
Project Cost	20
TOTAL POINTS	100

In general, the City wishes to avoid the expense to the City and to proposers of unnecessary oral interviews. Therefore, the City will make every reasonable effort to achieve the ranking using written submittals alone. If no

single top-ranked firm can be clearly identified by review of the written submittals alone, then the evaluator(s) will request the Purchasing Agent to schedule the top ranked firm(s) for oral presentations/interviews.

Drug-Free Workplace: In accordance with Florida Statute 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more proposals which are equal with respect to price, quality, and service are received by the City for the procurement of commodities or contractual services, a proposal received from a business that furnishes a form certifying that it is a Drug Free Workplace shall be given preference in the award process. NOTE: In the event, the submitter wishes to provide items specified above and beyond the stated requirements of this request at “no cost” to the City of Edgewater, these services should be identified and included in the request response.

Tie Breaker: In the event of a tie (with each business certifying that it is a Drug-Free Workplace), **both in individual scoring and in final ranking**, the firm with the lowest volume of work on City projects within the last five (5) years will receive the higher individual ranking. This information will be based on information provided by the Proposer, subject to verification at the City’s option. If there is a multiple firm tie in either individual scoring or final ranking, the firm with the lowest volume of work shall receive the higher ranking, the firm with the next lowest volume of work shall receive the next highest ranking and so on. If neither vendor has performed in work in the last five years, the preference will be given to the Proposer within the city limits or principal office closest to City Hall.

7) Contract / Agreement and All Required Forms

Required forms:

- Standard Professional Services Agreement (must be signed by authorized agent of the proposer).
- Proposers Checklist
- Conflict of Interest Affidavit
- Proposers Qualification Form
- Declaration Statement
- Insurance Requirements
- Drug Free Workplace Certification
- Non-Collusion Affidavit of Prime Bidder
- Public Entity Crimes Statement
- Vendor Information
- W9
- Public Act 2016-20 – Public Records Requirements
- Subcontractor Listing
- Proposal Pricing Form

**PROFESSIONAL SERVICES AGREEMENT
EMERGENCY DEBRIS MONITORING SERVICES
Request for Proposal (RFP) #17-ES-010**

THIS AGREEMENT is made and entered into this _____ day of ____, 2017, by and between _____, duly authorized to conduct business in the State of Florida and whose address is, hereinafter, called “CONSULTANT” and the **CITY OF EDGEWATER**, a political subdivision of the State of Florida, whose address is 104 North Riverside Drive, Edgewater, FL 32132, hereinafter called “CITY”.

SECTION 1. AGREEMENT. The terms of this Agreement, together with the incorporation of the terms and conditions of the Request for Proposal (RFP #17-ES-010), and any exhibits, schedules and attachments hereto, and any and all amendments relating to same, and any and all submittals from CONSULTANT, constitute the entire Agreement between CITY and CONSULTANT. This Agreement is the final, complete and exclusive expression of the terms and conditions of the parties’ Agreement. Any and all prior agreements, representations, negotiations, and understandings made by the parties, oral or written, expressed or implied, are hereby superseded and merged herein.

SECTION 2. CONTRACT TIME. The initial term of this contract shall be through November 30, 2020 or until any such time as all outstanding purchase orders issued prior to the expiration of the Agreement period have been completed. This agreement may be renewed for an additional three (3) years, renewable annually. Any such annual renewal shall be agreed to, in writing, by both parties.

SECTION 3. COMPENSATION. For Services rendered, the CITY shall pay the CONSULTANT a lump-sum fee, including or excluding reimbursable expenses as mutually agreed upon. Unless otherwise agreed in a Scope of Services, the CONSULTANT will invoice the City monthly based upon the CONSULTANT’s estimate of the portion of the total Services actually completed at the time of billing.

SECTION 4. REIMBURSABLE EXPENSES. “Reimbursable Expenses” means the actual, necessary and reasonable expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto for travel; toll telephone calls and facsimiles; reproduction of reports, drawings and specifications, and similar Project-related items; as provided in the City’s Purchasing Policy.

SECTION 5. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipts requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of

this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For City:

Robin L. Matusick, City Clerk/Paralegal
City of Edgewater
104 N. Riverside Drive
Edgewater, FL 32132
(386)424-2400 #1101

For Contractor:

_____, _____ (Name, Title)
_____. (Company)
_____. (Address)
_____ (City, State, Zip)
_____ (Phone)

SECTION 6. RIGHTS AT LAW RETAINED. The rights and remedies of CITY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

SECTION 7. CONTROLLING LAW, VENUE, ATTORNEY’S FEES. This Agreement is to be governed, construed, and interpreted by, through and under the laws of Florida. Venue for any litigation between the parties to this Agreement shall be in the County of Volusia, Florida and any trial shall be non-jury. Each party agrees to bear its own costs and attorney’s fees relating to any dispute arising under this Agreement.

SECTION 8. MODIFICATIONS TO AGREEMENT. This Agreement and any exhibits, amendments and schedules may only be amended, supplemented, modified or canceled by a written instrument duly executed by the parties hereto of equal dignity herewith.

SECTION 9. SEVERABILITY. If, during the term of this Agreement, it is found that a specific clause or condition of this Agreement is illegal under federal or state law, the remainder of the Agreement not affected by such a ruling shall remain in force and effect.

SECTION 10. WAIVER OF JURY TRIAL. THE CITY AND CONSULTANT HAVE SPECIFICALLY WAIVED THE RIGHT TO A JURY TRIAL CONCERNING ANY DISPUTES WHICH MAY ARISE CONCERNING THIS AGREEMENT.

SECTION 11. NON-WAIVER. No indulgence, waiver, election or non-election by CITY under this Agreement shall affect CONSULTANT’s duties and obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date written above for execution by CITY.

WITNESSES:

CITY OF EDGEWATER

Tracey T. Barlow, City Manager

Robin L. Matusick, City Clerk

Dated: _____

WITNESSES:

FIRMS

By: _____
_____, _____

Dated: _____

Attachments: A. RFP #17-ES-010
B. Firm Response to RFP
C. Scope of Service

Approved by the City Council of the City of
Edgewater at a meeting held on this _____
day of _____, 2017 under
Agenda Item No. _____.

PROPOSER CHECK LIST

IMPORTANT: Please read carefully, sign in the spaces indicated and return with your Bid.
Proposer should check off each of the following items as the necessary action is completed:

- ☐ The standard contract/ agreement has been signed and included.
- ☐ All applicable forms have been signed and included
- ☐ All information as requested in the Proposer's Qualification Form is included.
- ☐ Any addenda have been signed and included.
- ☐ The mailing envelope has been addressed to:

CITY CLERK
City of Edgewater
104 N. Riverside Dr.
Edgewater, Florida 32132

- ☐ The **mailing envelope must be sealed and marked** with Bid Number "**RFP 17-ES-010**", Bid Title "**EMERGENCY DEBRIS MONITORING SERVICES**" and Due Date "June 20, 2017 @ 3:00 pm".
- ☐ The Bid will be mailed or delivered in time to be received no later than the specified due date and time. (Otherwise Bid cannot be considered.)

ALL COURIER-DELIVERED BIDS MUST HAVE THE RFP NUMBER AND BID NAME ON THE OUTSIDE OF THE COURIER PACKET

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

CONFLICT OF INTEREST AFFIDAVIT

By the signature below, the firm (employees, officers and/or agents) certifies, and hereby discloses, that, to the best of their knowledge and belief, all relevant facts concerning past, present, or currently planned interest or activity (financial, contractual, organizational, or otherwise) which relates to the proposed work; and bear on whether the firm (employees, officers and/or agents) has a possible conflict have been fully disclosed.

Additionally, the firm (employees, officers and/or agents) agrees to immediately notify in writing the Finance Director, or designee, if any actual or potential conflict of interest arises during the contract and/or project duration.

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

State of _____)

City of _____)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2017, by
_____, who is personally known to me to be the
_____ for the Firm, OR who produced the following
identification:_____.

Notary Public

My Commission Expires: _____

PROPOSERS QUALIFICATION FORM

LIST MAJOR WORK PRESENTLY UNDER CONTRACT:

% Completed	Project	Contract Amount
		\$ _____
		\$ _____
		\$ _____

LIST CURRENT PROJECTS ON WHICH YOUR FIRM IS THE CANDIDATE FOR AWARD:

OTHER INFORMATION ABOUT PROJECTS:

Have you, at any time, failed to complete a project? ☐ Yes ☐ No

STATEMENT OF LITIGATION:

Are there any judgments, claims or suits pending or outstanding by or against you?

☐ Yes ☐ No

If the answer to either question is yes, submit details on separate sheet. List all lawsuits that have been filed by or against your firm in the last five (5) years:

FEES:

List total fees for work done on all City projects in the past five (5) years, whether as an individual firm or as part of a joint venture. **Fees must be listed individually by contract or project and then summarized as a total dollar amount.** Attach additional page if necessary.

\$_____ **Total Fees for work done on all City projects**

REFERENCES:

Bank(s) Maintaining Account(s): _____

Surety/Underwriter: (if required)_____

Other References: (Use additional sheets if necessary)

TYPE OF FIRM:

☐ Corporation/Years in Business: _____. If firm is a corporation, please list state in which it is incorporated: _____. If firm is a corporation, by signing this form, Proposer certifies that the firm is authorized to do business in the State of Florida.

☐ Partnership/Years in Business: _____

☐ Sole Proprietorship/Years in Business: _____

☐ Other: Please list: _____

Pursuant to information for prospective Proposers for the above-mentioned proposed project, the undersigned is submitting the information as required with the understanding that it is only to assist in determining the qualifications of the organization to perform the type and magnitude of work intended, and further, guarantee the truth and accuracy of all statements herein made. We will accept your determination of qualifications without prejudice.

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

DECLARATION STATEMENT

City of Edgewater
104 N. Riverside Dr.
Edgewater, FL 32132

RE: RFP NO. 17-ES-010- “EMERGENCY DEBRIS MONITORING SERVICES” for City of Edgewater”

Dear Mayor and Council Members:

The undersigned, as Proposer (herein used in the masculine, singular, irrespective of actual gender and number) declares that he is the only person interested in this bid or in the contract to which this bid pertains, and that this bid is made without connection or arrangement with any other person and this bid is in every respect fair and made in good faith, without collusion or fraud.

The Proposer further declares that he has complied in every respect with all the Instructions to Proposers issued prior to the opening of bids, and that he has satisfied himself fully relative to all matters and conditions with respect to the general condition of the contract to which the bid pertains.

The Proposer puts forth and agrees, if this bid is accepted, to execute an appropriate City document for the purpose of establishing a formal contractual relationship between him, and the City, for the performance of all requirements to which the bid pertains. The Proposer states that the bid is based upon the bid documents listed by **RFP #17-ES-010**.

IN WITNESS WHEREOF, WE have hereunto subscribed our names on this _____ day of _____, 20__ in the City of _____, in the State of _____.

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

INSURANCE REQUIREMENTS

INSURANCE TYPE

REQUIRED LIMITS

=====

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1. Worker's Compensation | Statutory Limits of Florida
Statutes, Chapter 440 and all
Federal Government Statutory Limits and
Requirements. |
| <input checked="" type="checkbox"/> 2. Commercial General Liability
(Occurrence Form) patterned
after the current I.S.O form
with no limiting endorsements. | <u>Bodily Injury & Property Damage</u>

<u>\$1,000,000</u> single limit per
occurrence |
| <input checked="" type="checkbox"/> 3. Indemnification: To the maximum extent permitted by Florida law, the Contractor/Vendor/Consultant shall indemnify and hold harmless the City of Edgewater, its officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor/Vendor/Consultant or anyone employed or utilized by the Contractor/Vendor/Consultant in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. | |

This section does not pertain to any incident arising from the sole negligence of the City of Edgewater.

- | | |
|--|---|
| <input checked="" type="checkbox"/> 4. Automobile Liability | \$ <u>500,000</u> Each Occurrence
Owned/Non-owned/Hired
Automobile Included |
| <input type="checkbox"/> 5. Other Insurance as indicated below:
Errors and Omissions or Professional
Malpractice Coverage | \$ 1,000,000 Per Occurrence |
| <input type="checkbox"/> 6. Aircraft Liability \$1,000,000 each occurrence combined single limit for bodily injury liability and property damage liability. | |
| <input checked="" type="checkbox"/> 7. Contractor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same Contractor shall provide City with certificates of insurance meeting the required insurance provisions. | |
| <input checked="" type="checkbox"/> 8. The City of Edgewater must be named as " ADDITIONAL INSURED " on the Insurance Certificate for Commercial General Liability where required. | |

INSURANCE REQUIREMENTS
(Continued)

☒ 9. The City of Edgewater shall be named as the Certificate Holder. NOTE--The "Certificate Holder" should read as follows:

City of Edgewater
Edgewater, Florida

No City Division, Department, or individual name should appear on the Certificate. No other format will be acceptable.

☒ 10. **Thirty (30) Days Cancellation Notice** required.

☒ 11. The Certificate must state the **RFP** Number and "Emergency Debris Monitoring Services".

=====

PROPOSER’S AND INSURANCE AGENT’S STATEMENT:

We understand the insurance requirements of these specifications and that the evidence of insurability may be required within five (5) days of the award of **RFP**.

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

Insurance Agency

Signature of Proposer’s Agent

DRUG-FREE WORKPLACE PROGRAM CERTIFICATION

Preference to businesses with drug-free workplace programs. -- Whenever two or more bids, proposals, or replies that are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid, proposal, or reply received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

- (1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- (2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- (3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- (4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

Does the individual responding to this solicitation certify that their firm has implemented a drug-free workplace program in accordance with the provision of Section 287.087, Florida Statutes, as stated above?

- ☐ **YES**
☐ **NO**

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

He/she is _____ of _____, Proposer that has submitted the attached Proposal;

He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

Neither the said Proposer nor any of its officers, partners, owners, agent representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposer, firm or person, to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit or cost element of the Proposal price or the Proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the CITY OF EDGEWATER.

The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Company

Address

Authorized Signature

City, State, Zip Code

Printed Name & Title

Telephone No.

Email

Fax No.

Subscribed and sworn to before me this ____ day of _____, 20__.

Title

My Commission Expires: _____

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(A), FLORIDA STATUTES,
ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. THIS SWORN STATEMENT IS SUBMITTED TO City of Edgewater

by _____

(Print Individual's Name and Title)

for _____

(Print Name of Entity Submitting Sworn Statement)

whose

business

is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____

2. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
 - a. A predecessor or successor of a person convicted of a public entity crime; or
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provisions of goods or services let by a public entity, or which otherwise transacts or applies to

transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies).

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity, nor any affiliates of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR A CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

Sworn and subscribed before me this _____ day of _____, 2017.

Personally known _____

(Notary)

OR produced identification _____

Notary Public State of _____

My commission expires: _____

(Type of Identification)

VENDOR INFORMATION

Vendor is:

() Corporation

() Partnership

() Sole Proprietorship

() Other _____(Explain)

Federal Employer Identification Number: _____

Firm Name: _____

Mailing Address: _____

Telephone No.: _____ Fax No.: _____

Email Address: _____ Web Address: _____

If remittance address is different from the mailing address so indicate below.

Firm Name: _____

Remittance Address: _____

Submitted by: _____

Name & Title Printed: _____

Request for Taxpayer Identification Number and Certification

Give form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Other (see instructions) ▶	<input type="checkbox"/> Exempt payee
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
	List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign
Here

Signature of
U.S. person ▶

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



PUBLIC ACT 2016-20 PUBLIC RECORDS REQUIREMENTS

RECORDS / AUDITS

The City of Edgewater is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

- a. Keep and maintain public records required by the City in order to perform the service;
- b. Upon request from the City's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the City.

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

During the term of the contract, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City Clerk. The Contractor agrees to make available to the City Clerk, during normal business hours and in Volusia County, all books of account, reports and records relating to this contract.

PUBLIC RECORDS CUSTODIAN

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK'S OFFICE
CITY OF EDGEWATER
104 N. RIVERSIDE DRIVE
EDGEWATER, FL 32132
(386)424-2400 X 1102
CITYCLERK@CITYOFEDGEWATER.ORG**

Signature acknowledges receipt and understanding of this form.

Name/Title

Date

EMERGENCY DEBRIS MONITORING SERVICE PROPOSAL

SUBCONTRACTOR LISTING

Provide a name, and address of all subcontractors that have the potential to work on this project

Subcontractor

Phone Number

PROPOSAL PRICING FORM
RFP 17-ES-010
EMERGENCY DEBRIS MONITORING SERVICES

Therefore, the undersigned, Hereinafter called “Proposer” hereby certifies that he/she has familiarized himself/herself with the extend of the work, and having examined carefully the scope of services herein, propose to furnish all labor, materials, and services without exception, for the Emergency Debris Monitoring Services.

It is understood that hourly rates below include data management and support to the City in a format that is standard with FEMA and FHWA for reimbursement from such entities to the City.

	DESCRIPTION	Price Per Hour
A	Project Manager	\$
B	Field Supervisor	\$
C	Loading Site Monitors	\$
D	TDSRS Monitors	\$
E	Disposal Site Tower Monitors	\$
F	Roving Monitors	\$
G	Operations Manager	\$
H	Data Manager	\$
I	Administrative Assistant	\$

Company Name: _____

Address: _____

Telephone Number: _____

Email Address: _____

Company Authorized Representative Name: _____

Signature/Date: _____

Bid prices must include all freight charges and delivery charges for any and all material delivered to the work sight.

THE ABOVE AMOUNTS INCLUDE SALARY COST, FRINGE BENEFITS, OVERHEAD, OPERATING MARGIN AND PROFIT, AND ALL DIRECT AND INDIRECT EXPENSES. PLEASE INCLUDE ABOVE ANY OTHER POTENTIAL ADDITIONAL SERVICES THAT MAY BE REQUIRED AND ASSOCIATED COSTS.

Authorized Signature

Address

Printed Name & Title

City, State, Zip Code

Company

Telephone No.

Date

Fax No.

**CITY OF EDGEWATER
TERMS AND CONDITIONS**

1. PURCHASE ORDER NUMBER:

THIS PURCHASE ORDER NUMBER AND THE SELLER'S NAME MUST BE CLEARLY SHOWN ON ALL INVOICES, PACKING SLIPS, DELIVERY RECEIPTS, AND CORRESPONDENCE. FAILURE TO CLEARLY INDICATE THIS PURCHASE ORDER NUMBER MAY RESULT IN THE RETURN OF INVOICES.

2. ACCEPTANCE:

ALL TERMS AND CONDITIONS OF THIS PURCHASE ORDER SHALL BECOME PART OF THE CONTRACT BETWEEN THE CITY OF EDGEWATER AND THE VENDOR/SELLER; THE VENDOR'S/SELLER'S DIFFERENT OR ADDITIONAL TERMS WILL NEVER BECOME PART OF THIS CONTRACT.

3. DELIVERY, TITLE & RISK OF LOSS:

TITLE SHALL PASS TO THE CITY OF EDGEWATER ON DELIVERY OF THE CONFORMING GOODS TO THE DESIGNATED LOCATION. NOTWITHSTANDING ANY AGREEMENT TO PAY FREIGHT, EXPRESS OR OTHER TRANSPORTATION CHARGES, THE RISK OF LOSS OR DAMAGE IN TRANSIT SHALL BE UPON THE VENDOR/SELLER. DELIVERY SHALL NOT BE COMPLETE UNTIL THE GOODS AND OR SERVICES HAVE BEEN RECEIVED, INSPECTED, AND ACCEPTED BY THE CITY OF EDGEWATER.

COLLECT SHIPMENTS WILL NOT BE ACCEPTED IN THE EVENT THAT THE CITY AGREES TO PAY THE FREIGHT, ALL FREIGHT CHARGES SHALL BE FULLY PREPAID AND INCLUDED ON THE INVOICE. THE ORIGINAL BILL MUST BE INCLUDED WITH THE INVOICE.

4. WARRANTY:

THE VENDOR/SELLER WARRANTS THAT THE GOODS AND/OR SERVICES SUPPLIED HEREUNDER WILL BE OF GOOD WORKMANSHIP AND OF PROPER MATERIALS, FREE FROM DEFECTS AND IN ACCORDANCE WITH SPECIFICATIONS. IF THE VENDOR/SELLER KNOWS THE CITY'S INTENDED USE, THE VENDOR/SELLER WARRANTS THAT THE GOODS AND/OR SERVICES ARE SUITABLE FOR THE INTENDED USE.

5. REMEDIES:

REGARDLESS OF WHETHER GOODS ARE BEING SOLD, LICENSED OR LEASED OR WHETHER SERVICES ARE BEING PERFORMED, THE VENDOR/SELLER AND THE CITY OF EDGEWATER AGREE THAT BOTH PARTIES HAVE ALL THE UNIFORM COMMERCIAL CODE RIGHTS, DUTIES, AND REMEDIES AVAILABLE.

6. CONFLICT OF LAWS:

THIS AGREEMENT TO PURCHASE AND THE PERFORMANCE OF THE PARTIES HEREUNDER SHALL BE CONSTRUED WITH AND GOVERNED BY THE LAWS OF THE CITY OF EDGEWATER AND THE STATE OF FLORIDA.

7. MODIFICATIONS:

NO MODIFICATION IN PRICE, DELIVERY, METHOD OR SCHEDULE, QUANTITY, QUALITY, SPECIFICATIONS OR ANY OTHER TERM OF THE CONTRACT WILL BE EFFECTIVE UNLESS AGREED TO IN WRITING, AND SIGNED BY AN AUTHORIZED PURCHASING AGENT.

8. TAXES:

THE CITY OF EDGEWATER FLORIDA IS EXEMPT FROM THE PAYMENT OF ALL FEDERAL EXCISE TAXES AND SALES TAXES OF THE STATE OF FLORIDA, AND GENERALLY ALL OTHER STATE GOVERNMENTS. VENDOR/SELLER SHALL FURNISH THE PROPER EXEMPTION CERTIFICATE

**State of Florida sales tax exemption number: 85-8013848356C7
Federal Employee Identification number: 59-6000-314**

9. PATENTS & ROYALTIES:

THE VENDOR/SELLER, WITHOUT EXCEPTION, SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF EDGEWATER AND ITS EMPLOYEES FROM LIABILITY OF ANY NATURE OF KIND, INCLUDING COSTS AND EXPENSES FOR OR ON ACCOUNT OF ANY COPYRIGHTED, PATENTED OR UNPATENTED INVENTION, PROCESS OR ARTICLE MANUFACTURED OR SUED IN THE PERFORMANCE OF THE CONTRACT, INCLUDING ITS USE BY THE CITY OF EDGEWATER. IF THE VENDOR/SELLER USES ANY DESIGN, DEVICE, OR MATERIALS COVERED BY LETTER, PATENT OR COPYRIGHT, IT IS MUTUALLY AGREED AND UNDERSTOOD WITHOUT EXCEPTION THAT THE LISTED PRICES SHALL INCLUDE ALL ROYALTIES OR COST ARISING FROM THE USE OF SUCH DESIGN, DEVICE OR MATERIALS IN ANY WAY INVOLVED WITH THE WORK.

10. INVOICING/PAYMENTS:

FURNISH ALL INVOICES IN DUPLICATE AND MAIL TO THE ADDRESS INDICATED ON THE FRONT. SEND A SEPARATE INVOICE FOR EACH SHIPMENT. INCLUDE THE CORRECT PURCHASE ORDER NUMBER ON EACH INVOICE. UNLESS PREVIOUSLY AGREED UPON BY BOTH THE CITY AND VENDOR, ALL INVOICING AND PAYMENTS WILL BE AS OUTLINED IN THE (LOCAL GOVERNMENT PROMPT PAYMENT ACT (FS 218. PART VII).

11. PRICES:

IF PRICES ARE HIGHER THAN SPECIFIED, DO NOT SHIP WITHOUT THE PURCHASING AGENTS PRIOR WRITTEN APPROVAL.

12. CLEAN HANDS:

BY ACCEPTING THIS CONTRACT, THE SELLER WARRANTS THAT NEITHER THE BUSINESS, NOR ANY OFFICER OR SIGNIFICANT STAKEHOLDER OF THE BUSINESS IS IN VIOLATION OF THE CITY OF EDGEWATER CODE AND DO NOT OWE THE CITY ANY PAST DUE DEBT. THE SELLER SPECIFICALLY AGREES THAT THE CITY MAY WITHHOLD ANY MONEY OWED THE SELLER FROM THIS CONTRACT FOR ANY EXISTING CODE VIOLATIONS AND/OR PAST DUE DEBT. IF THE SELLER MISREPRESENTS THE STATUS OF THE BUSINESS, ANY OFFICER OR SIGNIFICANT STAKEHOLDER, THE CITY WILL CONSIDER THIS A MATERIAL DEFECT OF THIS CONTRACT AND SHALL HAVE THE RIGHT TO IMMEDIATELY TERMINATE IT.

Cut and use this label for Bid Package

**CITY OF EDGEWATER
CITY CLERK
104 N. RIVERSIDE DRIVE
EDGEWATER, FL 32132**

**RFP 17-ES-010
EMERGENCY DEBRIS MONITORING
SERVICES**

**Due Date/Time
June 20, 2017 – 3:00 PM**

ATTACHMENT “A”

COMPETITIVE SOLICITATION REFERENCE QUESTIONNAIRE



COMPETITIVE SOLICITATION REFERENCE QUESTIONNAIRE

Solicitation: _____

Reference Questionnaire for: _____

Name of Company Requesting Reference Information

Name of Individual Requesting Reference Information

Evaluator Information:

Name: _____ Company: _____

Email: _____ Telephone: _____

The City of Edgewater is implementing a process that collects reference information on firms and their key personnel to be used in the selection of firms to perform this project. The Name of the Company listed above has listed you as a client for which they have previously performed work. Please complete the survey. Please rate each criteria to the best of your knowledge on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would not hire the firm/individual again). If you do not have sufficient knowledge of past performance in a particular area, leave it blank and the item or form will be scored "0".

Project Description: _____ Completion Date: _____

Project Budget: _____ Project Number of Days: _____

Item	Criteria	Score
1	Ability to manage the project costs (minimize change orders to scope)	
2	Ability to maintain project schedule (complete on-time or early)	
3	Quality of work	
4	Quality of consultative advise provided on project	
5	Professionalism and ability to manage personnel	
6	Project administration (completed documents, final invoice, final product turnover; invoices; manuals or going forward documentation, etc)	
7	Ability to verbally communicate and document information clearly and succinctly	
8	Ability to manage risks and unexpected project circumstances	
9	Ability to follow contract documents, policies, procedures, rules, regulations, etc.	
10	Overall comfort level with hiring the company in the future (customer satisfaction)	
TOTAL SCORE OF ALL ITEMS		

EXHIBIT “A”

REQUIRED FEDERAL PROVISIONS FOR EMERGENCY RELIEF PROGRAM – DEBRIS MONITORING AGREEMENTS

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency 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 the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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 FHWA or the contracting agency 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.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. 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 any Federal 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.

b. 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 Federal 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.

2. 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. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT “B”

BUY AMERICA REQUIREMENTS

ATTACHMENT 'A' – 23 CF Part 635.410 - Buy America Requirements

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of §635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or iron materials, or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.

(4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c)(1) A State may request a waiver of the provisions of this section if;

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the Federal Register for public comment.

(7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

[48 FR 53104, Nov. 25, 1983, as amended at 49 FR 18821, May 3, 1984; 58 FR 38975, July 21, 1993]