

**CITY OF GAUTIER
MEMORANDUM**

To: Mayor & Council
From: Paula Yancey, Interim City Manager
Date: July 27, 2016
Subject: Contract Extension with DRC Emergency Services for Debris Removal and 70-hour push in preparation for Hurricane/ Disaster Debris

REQUEST:

City Council authorization is requested for approval to extend the contract with DRC Emergency Services for Debris Removal and 70-hour push in preparation for Hurricane/ Disaster Debris that is set to expire on August 27, 2016.

DISCUSSION:

The City of Gautier opened Statements of Qualifications & Experience from qualified firms to perform disaster related debris removal services and monitoring services for the City of Gautier in the event of a disaster declaration or at the direction of the City on June 19, 2014. This contract was for a term of two (2) years, with an option to extend on a yearly basis for up to two (2) additional years, upon the discretion and approval of the City Council. The contract was effective August 27, 2014 and is set to expire August 27, 2016.

DRC Emergency Services has offered the City an extension for a period of one (1) year. The pricing, terms and conditions of the original contract will remain in effect until August 27, 2017.

RECOMMENDATION:

City Staff recommends City Council approval of the one (1) year contract extension with DRC Emergency Services for Debris Removal and 70-hour push in preparation for Hurricane/ Disaster Debris.

Based on the information provided, the Council may:

1. Approve the extension per the agreement; or
2. Disapprove the amendment per the agreement

ATTACHMENT(S):

DRC Emergency Services Renewal Offer
Contract for Debris Removal in Preparation for Hurricane/Disaster Debris



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July 26, 2016

Chastity Bilbo
City of Gautier
3330 Highway 90
Gautier, MS 39553

RE: Contract between DRC Emergency Services and the City of Gautier, MS
Debris Removal and 70-hour push in preparation for Hurricane/Disaster Debris

Ms. Bilbo,

The City of Gautier contract is set to expire on August 30, 2016. DRC Emergency Services, LLC would like to take this opportunity to offer the City an extension to the contract between DRC Emergency Services, LLC and City of Gautier, MS for a period of one (1) year. The pricing, terms and conditions in the original contract will remain in effect for the duration of this contract expiring August 30, 2017.

If this offer of renewal is acceptable to you, please execute below and fax or email it to my attention to (504) 482-2852 or (lgarcia@drcusa.com). Also, if you have any questions, please feel free to contact me. I look forward to continuing our relationship with you and City of Gautier, MS.

Sincerely,

Lisa M Garcia
Contracts Manager
Cell: (504)715-9052

Agreed and Accepted by:
City of Gautier, MS

Authorized Signature

Title

Date

PREAMBLE: Debris Removal and 70 Hour Push

This contract is intended to have Contractors load, haul and dispose of debris from the City of Gautier from devastated areas in the event of a disaster declaration. The City will pre-qualify contractors and define boundaries within the City for the pre-qualified contractor(s). List references in Section 1 of the bid package (with contact information) that can attest to the past performance on similar projects as described in the Scope of Work, and the volume of debris hauled for the client. To qualify for this project, **Prime Contractor must have hauled a minimum of 500,000 CY** for one event in the last 8 years, and be verifiable by the agency for which the debris was hauled. The debris removed under this Contract is intended to be the material generated by the disaster that is a threat to the public health and safety of the community, and is to be disposed of in permitted, approved permanent landfills. Since this is a pre-event contract, conditions may present themselves such that no work assignments are issued from this contract if an emergency declaration is not instituted, or if the City chooses to use its own forces to remove the material.

In addition, if the City determines there is sufficient need for a 70 hour push, this contract is intended to move roadway debris quickly to the side of the road to provide access into devastated areas. The debris is not to be removed or disposed, only to provide clear access routes to allow for: 1) movement of emergency vehicles, 2) law enforcement, 3) resumption of critical services, and 4) damage assessment of critical public facilities and utilities.

A performance bond of \$100,000 will be required that will be surrendered within 48 hours of landfall of hurricane if contractor has not mobilized equipment. This contract is for a term of two years with an option to extend on a yearly basis for up to two additional years with City Council approval. The Council shall have authority to decline renewal at such intervals. Non-renewal shall not be deemed breach of contract.

Contractor must have ownership of the equipment listed in the pricing schedule, or identify the intended subcontractor and that the subcontractor owns the equipment at the time of the bid. This contract is intended for debris contractors that have experience in providing this type of service on FEMA reimbursable contracts, with verifiable references of past contract performance of similar debris activity. Contractor must have been the prime contractor on a FEMA reimbursable debris project to qualify for this contract, and list the project and client reference that can verify this experience.

**CONTRACT FOR DEBRIS REMOVAL and 70 HOUR PUSH
IN PREPARATION FOR HURRICANE/DISASTER DEBRIS**

This Contract is made and entered into effective the 27 day of August, 2014, by and between the City of Gautier, Mississippi, a municipal corporation (hereinafter "City"), and DRC Emergency Services, LLC (hereinafter "Contractor"). WITNESSETH:

WHEREAS, in order to be prepared to respond in the most timely manner possible to remove the storm/disaster related material that presents a threat to the public health and safety of the community in the immediate aftermath of a damaging hurricane or other declared disaster, it is necessary to engage the services of a contractor prior to actual landfall of a storm or declared disaster;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual benefits derived hereby, the receipt and sufficiency of all of which is hereby acknowledged by both City and Contractor, it is hereby agreed as follows:

I PURPOSE: The purpose of this Contract is to pre-qualify debris contractors to provide debris removal from certain public and private property as defined herein as a result of a Hurricane or other declared disaster. In the event that no disasters occur, the pre-qualified debris contractor may not get any work assignments out of this contract. The severity of the disaster will dictate the level of cleanup necessary; therefore, a smaller disaster may not include debris removal from private property, while a major disaster may include right-of-way cleanup, private property cleanup, and demolition of structures. This Contract is also effectuated into under the provisions of Section 33-15-17, Mississippi Code of 1972, and pursuant to any applicable Governor's Declaration of Disaster as provided by Section 33-15-31, Mississippi Code of 1972, as well any applicable President's Declaration of Disaster.

II SERVICES OF CONTRACTOR:

2.1 General Debris Removal

(a) Contractor shall be fully responsible for sorting debris at curbside in the **public rights-of-way**, debris loading, transportation of eligible debris from the public rights-of-way in sectors of the City as assigned by the City, and disposal of debris. The City reserves the right to change the Sector Assignments, either by increase or decrease, assigned to Contractor. The City may choose to select multiple contractors, and the City may choose to offer Contractors that are not the low bid, the opportunity to haul debris for the City at the low bid price. The Contractor may not enter private property to remove debris, unless authorized by the City in writing. The material at the street is to be sorted at the curb for disposal at the appropriate site. Household Garbage is to be sorted and not hauled as part of this contract. Vegetative debris and Construction/Demolition (C/D) debris can be hauled to an approved landfill. Electronic waste is to be separated and hauled separately from other materials for disposal at an approved facility. Appliances are to be separated and hauled separately from other materials and handled delicately to allow for the recovery of the Freon and disposal (or recycling) at an approved facility. Exposed stumps at the ROW will be measured by the CY and paid for as debris.

(b) Contractor shall be fully responsible for eligible debris pick-up **from private property** (if authorized by FEMA), transportation of debris, and disposal of debris, provided that sufficient authorization to enter the property is acquired either through a valid "Right-of-Entry" or Court Order or administrative proceedings conducted by or on behalf of the City. The City shall designate which parcels of private property contain the debris to be removed. The City reserves the right to stop the debris removal on a parcel at any time prior to the completion of the debris removal on that parcel by the Contractor. When the removal of debris or structures from property by Contractor exposes any public utility line on a parcel, Contractor shall immediately notify the City of the need to cap said utility service or line and identify the Contractor's effort to resolve the utility issue. The City reserves the right to change the Sector Assignments, either by increase or decrease, assigned to Contractor. The material on private property is to be sorted on-site for disposal at the appropriate facility. Household Garbage is to be sorted and not hauled as part of this contract. Vegetative debris and Construction/Demolition (C/D) debris can be hauled to an approved landfill. Electronic waste is to be separated and hauled separately from other materials for disposal at an approved facility. Appliances are to be separated and hauled separately from other materials and handled delicately to allow for the recovery of the Freon and disposal (or recycling) at an approved facility. Contractor is to recover Freon from appliances and other Freon containing units.

(c) In addition to debris removal from public rights-of-way and private property, Contractor shall be fully responsible for demolition, debris pick-up, transportation and disposal of demolition debris, including Asbestos Containing Material (ACM) or Potentially ACM (PACM) eligible debris within the Sector of the City to which it

has been assigned. The contractor is responsible for securing all utilities on private property in compliance with City code and State law, including water and sewer caps. This includes capturing Freon from air conditioning units and appliances as governed by Federal, State and local laws. When the removal of debris or structures from property by Contractor exposes any public utility line on a parcel, Contractor shall immediately notify the City of the need to cap said utility service or line and identify the Contractor's effort to resolve the utility issue. The Contractor shall comply with OSHA, MDEQ and EPA requirements for ACM demolition, loading and hauling requirements to the location designated by the City within Jackson County. The Contractor cannot leave demolition material behind (including removal of floor coverings), except, perhaps, a clean slab. Slab removal is not authorized unless the slab is undermined and exposed and presents a health hazard and is designated as such by the City. The Contractor shall employ good demolition techniques, which includes:

1. Utilization of asbestos certified supervisors for visible assessment of asbestos siding and asbestos tile shingles prior to demolition,
2. Wetting debris during demolition to reduce the potential for air migration of asbestos,
3. Demolishing the building using a technique to minimize the excess breaking of asbestos,
4. Loading the material with techniques to maintain sufficient distance from personnel to reduce the exposure to airborne material,
5. Placing a placard on the truck hauling the ACM mix with C/D debris reading, "Warning Asbestos Hazard, Stay Away."
6. Notification of MDEQ through demolition notification forms within 24 hours of demolition.
7. Contractor shall employ all other demolition methods sufficient to maintain the safety of contractors, employees, sub-contractors, and the citizens of Gautier.

(d) Contractor shall be fully responsible for ACM/PACM debris disposal and compliance with NESHAP disposal requirements as governed by OSHA, MDEQ and EPA. The Contractor will deliver the ACM material to a municipal solid waste landfill or other NESHAP landfill within Jackson County and complete the manifest provided by the landfill for transportation of the material. The Contractor will contract directly with the landfill to pay the disposal costs related to the ACM debris. Contractor will follow the NESHAP regulations for demolition/abatement unless MDEQ and EPA provide for an accelerated policy for handling demolitions. Asbestos testing is not required as part of this Contract, as City will contract directly

with Asbestos Supervisor for testing and air monitoring. However, **all** Contractor employees engaged in operation of equipment conducting demolitions and truck drivers hauling demolition material must have "8 hour ACM Awareness Training" certification for handling ACM and any other training and requirements to satisfy the OSHA regulations.

(e) Contractor shall be fully responsible for final debris disposal. Contractor further shall submit proposed locations for debris disposal for approval by the City prior to hauling debris. Contractor shall provide the City with a copy of the approved permit of the disposal site. There will be no dumpsites, debris staging areas, or debris transfers within the City limits, nor will debris be permanently or temporarily stored or placed at any other location within the City. Contractor represents that it is familiar with all federal, state, and local ordinances, laws, rules, and regulations with respect to debris pick-up, transportation, and disposal, and that it will fully comply therewith at all times during the performance of work under this Contract.

(f) When a load of eligible debris is loaded into a truck, a representative of the City (whether a City employee assigned to the task or a subcontractor engaged to perform monitoring services) must be present to provide a load ticket to the driver. The load ticket shall contain such information, or space for subsequently providing information, which may be required to comply with FEMA requirements for reimbursement, including but not limited to: a ticket number; date; contractor name; truck number; truck capacity; point of debris collection; loading departure time; dump arrival time; and actual debris volume.

(g) Debris that is classified Hazardous or Toxic is not included in the scope of services, with the exception of Asbestos Containing Material (ACM). Hazardous or toxic materials or waste include, but is not limited to, petroleum products; paint products; electrical transformers; and known or suspected hazardous materials.

2.2 Leaning Trees/Hanging Limbs

(a) Contractor will engage in the removal of leaning and hanging vegetative debris from public property, private residential property and private commercial property, as assigned by the City, or its agents. Contractor shall be fully responsible for removal of damaged and disturbed trees 6" in diameter and greater leaning at an angle of 30 degrees or greater and designated as "removal". Entire trees shall be cut even with the ground and removed. Trees containing damaged and disturbed tree limbs, 2" in diameter and greater shall be paid for as a unit cost per tree, as listed in the Bidder's Schedule, regardless of the number of limbs cut from that tree, but requiring that the contractor cut all broken limbs that are greater than or equal to 2" in diameter. Diameter shall be measured at a point where the branch is cut off adjacent to the tree side of the break. Entire trees shall be cut even with the ground and removed if trunk is broken and the tree is marked "removal". Diameter of tree

shall be measured at a point four feet above the base of the tree. Contractor shall be responsible for removal of exposed stumps of diameter 6" or greater related to leaning trees. Stumps should have at least 50% of the root ball exposed to be eligible for removal. Stumps that are designated a safety hazard that are 25" or greater are to be extracted and the hole created by the extraction backfilled with fill dirt. Diameter shall be measured at a point two feet above the ground level. Price shall include extraction and removal of the stump and placement of fill dirt in the resulting hole. The unit bid price for each leaning tree, hanging limb and stump removal shall include the disposal of the debris derived from these leaners and hangers. Each eligible leaning tree and tree with hanging limbs and stump will be clearly marked or identified by a City representative (or monitor) to allow the reimbursement of the leaning and hanging vegetative debris. Leaning or hanging debris that is not marked or monitored will not be eligible for payment to the Contractor. The City (or its monitor) will determine what leaning and hanging vegetative debris and trees pose an immediate threat to public health and safety or to improved property.

(b) Contractor will be required to use load tickets (issued by the monitor) to track that eligible loads are disposed at approved facilities, as the unit bid price includes disposal of the material. Payment for cutting leaning and hanging vegetative material from each specified address will be contingent on the load tickets from the material being delivered to the approved disposal site. Contractor shall be fully responsible for final debris disposal. All material cut from a property must be removed from the property that same day.

(c) When the Contractor is working to remove leaning and hanging vegetative debris, or placing a load of eligible debris into a truck, a representative of the City (whether a City employee assigned to the task or a subcontractor engaged to perform monitoring services) must be present to provide a load ticket to the driver and to verify that the leaning and hanging debris is eligible for reimbursement. The load ticket shall contain such information, or space for subsequently providing information, which may be required to comply with FEMA requirements for reimbursement, including but not limited to: a ticket number; date; contractor name; truck number; truck capacity; point of debris collection; loading departure time; dump arrival time; and actual debris volume.

2.3 General Information

(a) Contractor shall operate during daylight hours coordinating with landfill, unless otherwise directed by the City's designated Project Manager. Removal shall be restricted to between the hours from dawn to dusk.

(b) Contractor shall be responsible for establishing and scheduling collection routes in consultation with City's designated Project Manager and for coordinating deliveries with the designated disposal facilities.

(c) During the period of this Contract, Contractor shall make at least two (2) passes

along all public rights-of-way and defined public property in the City, or as directed by the City based on the severity of the storm, with a minimum of one week, or such time period designated by the City, between passes for each particular area.

- (d) Contractor shall furnish and pay the cost, including sales tax and all other applicable taxes and fees, of all the necessary materials and shall furnish and pay for all the superintendents, labor, tools, equipment, transportation and pay for all disposal site dumping fees, and perform all other work required for the removal of all debris, as defined herein, in strict accordance with this Contract, and any amendments thereto and such supplemental plans and specifications which may hereafter be approved.
- (e) Contractor shall be responsible for the conduct and action of all its employees and its sub-contractors. Contractor's employees and sub-contractors shall not exhibit any pattern of discourteous or discriminatory behavior to the public.
- (f) Contractor shall be responsible for the compliance of any subcontracting parties with the agreed upon contract conditions, and with any applicable federal, state, or local regulations.
- (g) Contractor shall not charge any resident, business or institution for work performed under this scope of work, nor shall Contractor or anyone employed or subcontracted by Contractor accept any additional monies from any resident, business, or institution for work performed under this scope of work.
- (h) If any debris pile is designated "Do not remove" by property owner, Contractor shall by-pass said pile until the last pass and only remove pile at the direction of the CITY. If any pile is marked "Do not remove" by a FEMA or MEMA employee, Contractor shall not remove said pile.
- (i) If Contractor encounters a body or human remains during the debris removal process, or is notified by the City of the probable existence of a body or human remains within any debris being removed, contractor shall immediately cease loading at that location until appropriate public officials have completed their investigation and cleared the site for resumption of debris removal activity.

III EQUIPMENT AND PERSONNEL:

- (a) All trucks and other equipment utilized in the performance of this Contract must be in compliance with all applicable federal, state, and local rules and regulations, and are subject to the approval of the City. Any truck used to haul debris must be mechanically loaded by an appropriately sized front end loader, backhoe, or other approved and appropriate equipment. Additionally, the truck or trailer must dump hydraulically and be controlled from the cab of the vehicle and be capable of rapidly dumping its load without the assistance of other equipment or

have a self loading feature affixed to the body of the trailer. At a minimum, any truck used to haul debris must be equipped with a factory issued metal tailgate that will effectively contain the debris during transport and permit the truck to be filled to capacity; and measured and marked for its load capacity. Sideboards or other extensions to the bed are allowable, provided they meet all applicable rules and regulations, cover the front and both sides, and are to be constructed in a manner to withstand severe operating conditions. The sideboards are to be constructed of 2" by 6" boards or greater and not to extend more than two feet above the metal bed sides. All extensions are subject to acceptance or rejection by the City. All trucks carrying debris must have functional tarps to contain the material from blowing out of the truck during transportation of the debris to the disposal sites. All equipment shall be subject to inspection by the City prior to their use and at all times during this Contract.

(b) Contractor shall be responsible for providing protective gear and equipment to its agents and employees and for ensuring its proper utilization in the event of an encounter with asbestos in the debris being removed under this Contract. If asbestos is encountered in the debris being removed under this Contract, Contractor shall immediately notify the City of that fact and all procedures and precautions prescribed by law must be undertaken in the process of removing and disposing of that material.

(c) Contractor is responsible for determining and complying with applicable requirements for securing loads while in transit. At a minimum, Contractor shall assure that all loads are transported without threat of harm to the general public, private property, and public infrastructure and have functional metal tailgates and tarps covering loads during transport.

(d) All vehicles and equipment shall have a fully functional and certified fire extinguisher of Class A type.

(e) Contractor will provide decals for trucks of minimum size of 18"x 18" for providing identifying information. Contractor will provide the City access to each debris truck 24 hours before debris hauling by that truck commences to allow the City time to measure the capacity of the truck. The City, or its designated representative, will then fill out a truck measurement form and provide the Contractor a measured capacity of the bed rounded to the nearest Cubic Yard (CY). Each vehicle and trailer transporting debris shall bear two (2) emblems (one on each side) that show the following:

- A. "Contractor for the City of Gautier"
- B. The assigned Truck/Trailer number
- C. Cubic Yardage Capacity (for applicable trucks and trailers)

Any truck identified as manipulating their sideboards to reduce the available volume after measurement will be removed from the project and reported to the appropriate

authorities.

(f) Contractor shall operate in accordance with all Mississippi Department of Transportation standards including all pertinent traffic control techniques and procedures, as well as transportation of debris over roadways. Contractor shall be responsible for the control of pedestrian and vehicular traffic in the work area. Contractor shall provide all flag persons, signs, equipment, and other devices necessary to meet federal, state, and local requirements. The traffic control personnel and equipment shall be additional to the personnel and equipment required to perform the essential work described in this Contract. At a minimum, one flag person shall be posted at each end of each active loading site and one flag person shall be posted at each loading operation.

(g) No vehicles or equipment shall be located on public property or public rights-of-way within the City unless actively engaged in debris removal.

(h) Both City and Contractor will designate a specific person identified by name, address, phone number, and means of immediate communication access (cell phone) who shall be the contact person throughout the term of this Contract as agent of the City and Contractor, respectively. City and Contractor will immediately notify the other, telephonically, with a follow-up written confirmation within twenty-four (24) hours of any change in this designation. Such person shall be immediately available at all times during the performance of this Contract.

(i) Any personnel and equipment designated by Contractor to be utilized in the performance of the Contract shall not be utilized elsewhere or released in any way, fashion or form for the duration of the Contract unless approved in writing by the City.

(j) The contractor will provide an inspection tower at the dumpsite, if specified by the City. This tower must be constructed such that the City monitor can look down into the bed to fully view the debris load, establishing a volume. The City reserves the right to approve of the inspection tower prior to commencement of debris hauling activity. The inspection tower must be constructed to meet all local, state, and federal requirements. The contractor may not provide a mechanical lift in place of a constructed tower. The contractor shall provide portable restroom facilities at all dumpsites.

IV TIME:

(a) The contract will be for a term of two years with an option to extend on a yearly basis for up to two additional years, upon the discretion and approval of the City Council. Individual work assignments will be provided for a defined duration based on the magnitude of the disaster. The City will initiate work assignments and can issue additions or deletions to the Contract by written change orders, in its sole discretion, or the Contract is terminated as provided herein.

(b) Both parties pursuant to applicable federal, state, and local law will equitably negotiate subsequent changes and completion time.

V PAYMENT AND MEASUREMENT:

(a) Payment shall be based on a schedule of cost per cubic yard of eligible debris or by the individual pay items as defined in the Contractor Bidder's Schedule. Prices are valid for a 4 year period without any adjustments for fuel costs or inflation.

(b) Measurement for debris removed and disposed of will be by the cubic yard as predetermined through truck or trailer bed measurement, or through monitored inventory and documentation from the City or its agents based on the bid items provided herein. Actual measurement shall be documented by trip tickets on a form designated by the City. Load tickets will be provided by the City or its agent with a percentage of capacity identified on the ticket, as determined through observation from the tower at the dumpsite by the monitor, or through individual pay items as tracked and identified by the City, or its monitoring firm.

(c) Contractor shall be reimbursed based solely on the trip tickets issued and verified by the City at the Disposal Site or by the individual pay items as monitored and approved by the City or its agents. Contractor shall not invoice the City more frequently than once for each pass through its sector, or once monthly, whichever is greater. Contractor invoices must be separated by Federal Aid Routes, ROW and ROE work separately and identify and invoice first pass debris removal from Federal Aid routes separately.

(d) Contractor shall not be paid to handle, process, or dispose of debris that is unrelated to the specific declared disaster damage. Further, Contractor shall bill the City and be paid only for eligible debris that originates within the City.

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

(f) The City reserves the right not to make any work assignments in the event of minimal damage or no declared disasters occur throughout the life of this contract, and the right to use CITY staff and equipment to haul debris.

VI LIABILITY AND INDEMNITY:

(a) Contractor shall be responsible for all damages and all liability to both public and private property in the performance of its duties under the Contract, and shall report such damages to the City Contact as soon as possible.

(b) Contractor does further indemnify and save harmless the City, its officers, agents, representatives, engineers, monitors, employees and attorneys from and against any and all losses and claims, demands, payments, suits, actions and judgments of every kind, including, without limitation, attorneys fees and expenses for the total cost of review and defending same, that may be brought or recovered against them by reason of any action or omission of the Contractor, its agents or employees (including those of any of his sub-contractors) in the performance of work under this Contract.

(c) In the event that the Contractor conducts demolition or debris removal from private property, and the action of removal removes an excessive volume of dirt from the property or significantly damages the property through rutting, replacement dirt may be required to fill the removed dirt material or ruts from the damaged property so as to avoid ponding of water on the property. Contractor should not excessively remove dirt from property. Replacement dirt will be required as a non-reimbursable item to repair the damage to the private property. Fill material to damaged property and type of fill material will be at the direction of the City and not be a reimbursed activity.

VII INSURANCE/BONDING

(a) Contractor shall maintain general liability insurance which shall remain in full force and effect throughout the term of the Contract, and any extension hereof, in an amount of not less than **\$3,000,000.00**. Such insurance shall cover all operations under the Contract, whether such operations are by Contractor, or by any sub-contractor, or by anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. The City must be listed as an additional insured on said insurance policy.

(b) Contractor shall maintain in full force and effect throughout the term of the Contract, and any extension hereof, statutory worker's compensation insurance for all employees, including those of any subcontractor, utilized in the performance of the Contract.

(c) Contractor shall maintain in full force and effect throughout the term of this Contract automobile liability insurance. Such coverage shall be written on a comprehensive form covering owned, non-owned, and leased vehicles.

(d) All insurance or bonds required under the terms of this Contract and the Bid Specifications and General Requirements shall be issued by a company licensed to do business in the State of Mississippi. Contractor must provide a performance bond of \$100,000 to the City of Gautier upon notice of a work assignment for the Not to Exceed contract amount.

(e) Contractor shall submit renewal certificates to the City upon annual contract

renewals as proof of continued coverage for all required insurance and bonds.

VIII INDEPENDENT CONTRACTOR:

At all times and under all conditions Contractor and all sub-contractors shall be independent Contractors and shall not represent themselves in any way as agents of the City. As independent contractors, Contractor and all sub-contractors are not entitled to any City employment benefits.

IX TERMINATION:

The Contractor may terminate this Contract upon sixty (60) days written notice to the City, provided, however, that during such sixty (60) days (or until earlier release by the City), Contractor shall continue to diligently perform all of its duties hereunder. The City may cancel this Contract at any time for any reason, with or without cause, upon written notice to the Contractor. Contractor understands and accepts that any or all of the debris removal services undertaken by the City may be pre-empted, replaced, or performed by state or federal debris removal efforts, and that the City intends to solicit as much State and Federal Assistance in these endeavors as possible. Since this is a pre-event contract, conditions may present themselves such that no work assignments are issued from this contract if an emergency declaration is not instituted, or if the City chooses to utilize its own forces to respond to the disaster and debris removal efforts.

X PURPOSE OF 70 HOUR PUSH:

The purpose of this Contract is to provide the emergency protective measure of clearing the roads and streets of the City of debris to enable their use by vehicles, including but not limited to search and rescue vehicles, police vehicles, ambulances, fire trucks, and public works vehicles, as well as the general public. This Contract is also entered into under the provisions of Section 33-15-17, Mississippi Code of 1972, and pursuant to the Governor's Declaration of Disaster as provided by Section 33-15-31, Mississippi Code of 1972, as well as the President's Declaration of Disaster.

XI SERVICES OF CONTRACTOR:

11.1 70 Hour Push

(a) Contractor shall be responsible for clearing as many of the streets and roads of the City of Gautier as may be cleared during the term of this Contract (on a

priority basis established by the City, as communicated to the Contractor's designated Contract Representative by the City's designated Contract Representative (who shall be designated by the City Manager) by cutting debris, where necessary, and moving it aside in such a manner that vehicles may utilize those streets for search and rescue purposes, law enforcement purposes, fire prevention and containment purposes, as well as all other activities of public officials in protecting the public health, safety, and welfare and restoring essential services.

(b) Contractor shall provide the equipment specified herein, with operators and laborers, for debris clearing. The Contractor shall provide all labor and materials necessary to fully operate and maintain (including fuel, oil, grease, and repairs) the equipment listed in the Bidder's Schedule.

(c) The Contractor shall provide crews and equipment to provide these services for a period of Seventy billable (70) Hours after receiving a written Notice to Proceed from the City, or a verbal Notice to Proceed from both the City Manager and either the Director of Public Works, the Director of the Police Department, or the Director of the Fire Department.

(d) All hourly equipment rates include the cost of mobilization, cost of the operator, supervision, maintenance, fuel, repairs, overhead, profit, insurance, and any other costs associated with the equipment and personnel. Hours are for project hours on the job, with the equipment manned and operated, while supervised, within the City limits. No mobilization or travel time to the City are reimbursable, nor is idle equipment reimbursable or chargeable as part of this contract.

(e) The work shall consist of cutting fallen limbs or trees that obstruct the designated streets, and pushing the resulting debris to the side of the right of way or if directed by the City or its Monitor, place the material to a suitable location at the end of a street or to a vacant lot in such a manner that the designated street becomes passable to emergency and other vehicles. The work shall also consist of pushing structural and any other debris to the side of the right of way in such a manner that the designated street becomes similarly passable without damaging the City street or infrastructure.

(f) The Contractor shall only be paid for work on streets designated by the City's Contract Representative. In addition, Contractor shall only be paid for work performed where City monitoring agent is present, or has viewed site, and will be able to confirm performance, equipment used, and duration of equipment use. In working with the City/monitor, identification of Federal Aid/Non Federal Aid routes is essential in protecting the reimbursement of the City. When the Contractor is working to remove or clear debris, Contractor will notify the City through its Contract Representative that work is to be in progress such that the City can send a representative (whether a City employee assigned to the task or a subcontractor engaged to perform monitoring services) to review the Contractor's activity. Failure to notify the City or to perform work in such a manner that the City is unable to verify performance shall be a violation of this section and such work shall not be

compensated.

(g) The Contractor shall conduct the work so as not to interfere with the disaster response and recovery activities of Federal, State, and local governments or agencies (including but not limited to the office of the Coroner, search and rescue units, and City work crews), or of any public utilities. In the event of a storm sufficiently severe to involve search and rescue efforts and body recovery efforts, whenever so directed Contractor shall suspend work and proceed at the direction of the search and rescue official in charge of any particular debris site.

(h) In the sole direction of the City, Contractor may be instructed by the City to cease work on any particular street or road at any time even though previously instructed to work on that street or road (whether to permit city, state, or federal work crews to perform debris removal tasks, to re-prioritize the schedule of streets to be cleared, or for any other reason). In the event Contractor is so ordered, Contractor will be paid for all work performed in accordance with this Contract up until the cease and desist notification.

(i) Contractor shall be responsible for the conduct and action of all its employees and its sub-contractors. Contractor's employees and sub-contractors shall not exhibit any pattern of discourteous or discriminatory behavior to the public.

(j) Contractor shall be responsible for the compliance of any subcontracting parties with the agreed upon contract conditions, and with any applicable federal, state, or local regulations.

(k) Contractor shall not charge any resident, business or institution for work performed under this scope of services, nor shall Contractor or anyone employed or subcontracted by Contractor accept any additional monies from any resident, business, or institution for work performed under this scope of services.

XII EQUIPMENT AND PERSONNEL:

(a) All trucks and other equipment utilized in the performance of this Contract must be in compliance with all applicable federal, state, and local rules and regulations, and are subject to the approval of the City. All trucks must have functional tarps and factory issued metal tailgates. Sideboards or other extensions to the trailer are allowable, provided they meet all applicable rules and regulations, cover the front and both sides, and are to be constructed in a manner to withstand severe operating conditions. The sideboards are to be constructed of 2"x 6" boards or greater, and not to exceed more than 2 ft. above the metal bed sides. All equipment shall be subject to inspection by the City prior to their use and at all times during this contract.

(b) Contractor is responsible for determining and complying with applicable

requirements for securing loads, if any, while in transit. At a minimum, Contractor shall assure that all loads are transported without threat of harm to the general public, private property, and public infrastructure.

(c) All vehicles and equipment shall have a fully functional and certified fire extinguisher of Class A type.

(d) No vehicles or equipment shall be located on public property or public rights-of-way within the City unless actively engaged in debris removal.

(e) Both City and Contractor will designate a specific person identified by name, address, phone number, and means of immediate communication access (cell phone and/or pager) who shall be the contact person throughout the term of this Contract as agent of the City and Contractor, respectively. City and Contractor will immediately notify the other, telephonically, with a follow-up written confirmation within twenty-four (24) hours of any change in this designation. Such person shall be immediately available at all times during the performance of this Contract.

(f) Any personnel and equipment designated by Contractor to be utilized in the performance of the Contract shall not be utilized elsewhere or released in any way, fashion or form for the duration of the Contract unless approved in writing by the City.

XIII TIME:

(a) The maximum time allowable for complete performance in every respect under this Contract shall be Seventy (70) hours of equipment operation from the issuance of the Notice to Proceed per declared disaster. The contract will be for a term of two years with an option to extend on a yearly basis for up to two additional years, upon the discretion and approval of the City Council.

XIV PAYMENT AND MEASUREMENT:

(a) Payment shall be based on the hourly rates as identified in the attached Bidder's Rate Schedule (ATTACHED AS EXHIBIT A), subject to 5% retainage as required by State Law, up to the "Not to exceed" total provided in the bidders schedule, unless authorized by written Addendum as approved in writing by the City to exceed this amount. All equipment used on this project must be authorized by the City prior to initiation of work. Idle equipment and equipment hours not performed within the City limits are not payable as part of this contract.

(b) Verification of debris removal or clearing and hourly operating totals for each approved equipment type will be by the City's authorized representative.

(c) Contractor shall not be paid to handle or process debris that is unrelated to

disaster damage.

XV LIABILITY AND INDEMNITY:

(a) Contractor shall be responsible for all damages and all liability to both public and private property in the performance of its duties under the Contract, and shall report such damages to the City Manager or authorized designee as soon as possible.

(b) Contractor does further indemnify and save harmless the City, its officers, agents, representatives, employees and attorneys from and against any and all losses and claims, demands, payments, suits, actions and judgments of every kind, including, without limitation, attorney's fees and expenses for the total cost of review and defending same, that may be brought or recovered against them by reason of any action or omission of the Contractor, its agents or employees (including those of any of his sub-contractors) in the performance of work under this Contract.

XVI INSURANCE:

(a) Contractor shall maintain general liability insurance which shall remain in full force and effect throughout the term of the Contract, and any extension hereof, in an amount of not less than \$3,000,000.00. Such insurance shall cover all operations under the Contract, whether such operations are by Contractor, or by any sub-contractor, or by anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. The City must be listed as an additional insured on said insurance policy.

(b) Contractor shall maintain in full force and effect throughout the term of the Contract, and any extension hereof, statutory worker's compensation insurance for all employees, including those of any subcontractor, utilized in the performance of the Contract.

(c) Contractor shall maintain in full force and effect throughout the term of this Contract automobile liability insurance. Such coverage shall be written on a comprehensive form covering owned, non-owned, and leased vehicles.

(d) All insurance or bonds required under the terms of this Contract and the Bid Specifications and General Requirements shall be issued by a company licensed to do business in the State of Mississippi.

XVII INDEPENDENT CONTRACTOR:

At all times and under all conditions Contractor and all sub-contractors shall be independent Contractors and shall not represent themselves in any way as agents of the City. As independent contractors, Contractor and all sub-contractors are not entitled to any City employment benefits.

XVIII TERMINATION:

The City may cancel this Contract at any time for any reason, with or without cause, upon written notice to the Contractor. Since this is a pre-event contract, conditions may present themselves such that no work assignments are issued from this contract if an emergency declaration is not instituted.

XIX MISCELLANEOUS:

- (a) Contractor shall make every effort to utilize and employ local sub-contractors, equipment rental, supplies and other locally available resources.
- (b) Contractor shall comply with all federal, state, and local laws, rules, ordinances, and regulations regarding non-discriminatory hiring with regard to race, creed, color, national origin, or handicap.
- (c) Contractor shall comply with the federal, state and local requirements regarding minority business enterprise (MBE) in the procurement of goods, equipment, or services, and shall insure that all sub-contracting, competitive, and equitable bidding opportunities are followed in order to afford such minority business enterprise participation. Contractor shall also comply with: Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11275 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60); the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3); the Davis-Bacon Act (40 U.S.C. 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5); and, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of labor regulations (29 CFR Part 5), as well as all other applicable federal regulations. The Contractor and/or Subcontractors listed as part of this contract cannot be on the Federal Debarred Contractors list.
- (d) City is not responsible for potentially adverse working conditions including, but not limited to, limited fuel supplies, limited housing availability, limited food and water supplies, and wet and muddy conditions. Contractor represents that it has inspected the areas subject to this contract in its pre-storm condition and is familiar

with the street layout, including but not limited to, street widths; and has considered all other factors, both known and unknown, that will affect the work to be performed under this Contract, and accepts same "as is". Contractor further represents that it has not in any way relied upon any representation of the City or any of its agents, officers, representatives, employees, and attorneys.

(e) Contractor acknowledges that the severity of any storm which might make landfall at or near the City, as well as the extent of damage that may be caused thereby, cannot be ascertained by either party prior to the issuance of a notice to proceed, and that Contractor is prepared to perform the services called for in this agreement regardless of the extent of said damage. The Contractor acknowledges that the severity of the storm shall not be an excuse for non-performance and is providing a performance bond to ensure mobilization within 48 hours of landfall of a hurricane.

(f) Contractor shall cooperate fully with City for City to obtain the maximum amount of reimbursement from FEMA and MEMA.

(g) City shall provide, and Contractor shall allow, monitoring and inspections as necessary to determine contract performance, which may include, but is not limited to, on-site inspections and metering of operations, and inspections of operating records during Contractor's operating hours.

(h) Any environmental samples, analyses, or remediation actions required as a result of Contractor's equipment, operations, or activities shall be the full responsibility of the Contractor.

(i) All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of Mississippi, and in the event of a conflict that cannot be resolved; suit will be filed in the appropriate state court in Jackson County, Mississippi.

(j) This Contract is governmental in nature for the benefit of the general public of the City, and the City does not therefore waive the provisions of its sovereign immunity or its protection under the laws of the State of Mississippi.

(k) If any provision, section, sub-section, paragraph, sentence, clause, phrase, or portion of this Contract, or the documents incorporated herein is for any reason held invalid, unlawful, or unconstitutional by the Court identified herein, it shall not affect the remainder of the validity hereof provided such Contract is not so reduced by such holding as to render it invalid.

(l) This Contract may not be amended, altered or changed, except upon written agreement executed by the duly authorized representative of the Contractor and by the governing authority of the City. This Contract is subject to the approval of the Federal Emergency Management Agency (FEMA) and the Mississippi Emergency Management Agency (MEMA), and is subject to modifications as either of these agencies may require.

- (m) This Contract shall not be assigned without the prior written consent of City.
- (n) This Contract shall be binding upon the heirs, successors, assigns (if any), agents, officials, employees, independent contractors, and sub-contractors of the parties.
- (o) Use of the masculine includes feminine and neuter, singular includes plural, and captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope or intent of this Contract.
- (p) Performance of Contractor shall be secured by a performance bond payable to the City of Gautier, Mississippi, in the amount of \$100,000.00, in the event that the Contractor does not mobilize within 48 hours of landfall of a hurricane, or other Contractor's default or failure to perform under the terms and conditions of this Contract, the bond would become payable to the City of Gautier.
- (q) The Contract documents which comprise and supplement the Contract between the City and Contractor consists of the following documents, which documents are made a part of this Contract as fully as if disclosed and written at length and made a part hereof: this Contract and the Notice to Proceed.

XX AWARD:

- (a) Contractor shall make every effort to utilize and employ local sub-contractors, equipment rental, supplies and other locally available resources. The City reserves the right to accept or reject (in its sole discretion) proposed subcontractors. Contractor may not use any subcontractor rejected by the City.
- (b) Contractor shall comply with all federal, state, and local laws, rules, ordinances, and regulations regarding non-discriminatory hiring with regard to race, creed, color, national origin, or handicap.
- (c) The City reserves the right to award contracts to multiple companies. The City reserves the right to delete from the Scope the removal of debris from private property and demolitions of structures from the Contract at any time following the award of the Contract to the successful bidder, while requiring the Contractor to continue to remove material from public rights of way.
- (d) The City reserves the right to award portions of work to separate contractors. One Contractor may be awarded any one (or more) individual bid items within this Scope.
- (e) Contractor shall comply with the federal, state and local requirements regarding minority business enterprise (MBE) in the procurement of goods, equipment, or services, and shall insure that all sub-contracting, competitive, and equitable bidding opportunities are followed in order to afford such minority business enterprise participation.

- (f) City is not responsible for potentially adverse working conditions including, but not limited to, limited fuel supplies, limited housing availability, limited food and water supplies, and wet and muddy conditions. Contractor represents that it has inspected the areas where debris is to be collected and removed and is familiar with the street layout, including but not limited to, street widths; and has considered all other factors, both known and unknown, that will affect the work to be performed under this Contract, and accepts same "as is". Contractor further represents that it has not in any way relied upon any representation of the City or any of its agents, officers, representatives, employees, and attorneys.
- (g) Contractor shall cooperate fully with the City in order for the City to obtain the maximum amount of reimbursement from FEMA and MEMA.
- (h) City shall provide, and Contractor shall allow, monitoring and inspections as necessary to determine contract performance, which may include, but is not limited to, on-site inspections and metering of operations, and inspections of operating records during Contractor's operating hours.
- (i) Any environmental samples, analyses, or remediation actions required as a result of Contractor's equipment, operations, or activities shall be the full responsibility of the Contractor.
- (j) All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of Mississippi, and in the event of a conflict that cannot be resolved; suit will be filed in the appropriate state court in Jackson County, Mississippi.
- (k) This Contract is governmental in nature for the benefit of the general public of the City, and the City does not therefore waive the provisions of its sovereign immunity or its protection under the laws of the State of Mississippi.
- (l) If any provision, section, sub-section, paragraph, sentence, clause, phrase, or portion of this Contract, or the documents incorporated herein is for any reason held invalid, unlawful, or unconstitutional by the Court identified herein, it shall not affect the remainder of the validity hereof provided such Contract is not so reduced by such holding as to render it invalid.
- (m) This Contract may not be amended, altered or changed, except upon written agreement executed by the duly authorized representative of the Contractor and by the governing authority of the City. This Contract is subject to the review of the Federal Emergency Management Agency (FEMA) and the Mississippi Emergency Management Agency (MEMA), and is subject to modifications as either of these agencies may require.
- (n) This Contract shall not be assigned without the prior written consent of City.
- (o) This Contract shall be binding upon the heirs, successors, assigns (if any), agents, officials, employees, independent contractors, and sub-contractors of the

parties.

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

(q) The Contract documents which comprise and supplement the Contract between the City and Contractor consists of the following documents, which documents are made a part of this Contract as fully as if disclosed and written at length and made a part hereof:

- (1) This Contract;
- (2) Any Exhibits to this Contract;
- (3) Contractor's Bid and Bonds;
- (4) Notice of Award;
- (5) Notice to Bidders;
- (6) Bid Specifications and General Requirements;
- (7) Any modifications, including change orders, duly delivered after execution of this Contract; and
- (8) Notice to Proceed.

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

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

"CONTRACTOR"

DRC Emergency Services, LLC.

By:

Krustyn Fuentes

Title

V.P. of Business Development

CITY OF GAUTIER, MISSISSIPPI

By:

Wade P. Walker

MAYOR, CITY OF GAUTIER

ATTEST:

Cynthia

CITY CLERK

