

RESOLUTION 19-42

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AGREEMENTS WITH THOMPSON CONSULTING SERVICES AND DEBRIS TECH, RELATED TO THE DISASTER DEBRIS MONITORING SERVICES.

BE IT RESOLVED by the City Council of Panama City Beach that:

1. The appropriate offices of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and Thompson Consulting Services, relating to the City's disaster debris monitoring services, in substantially the form attached and presented as Exhibit A to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.
2. The appropriate offices of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and Debris Tech, relating to the City's disaster debris monitoring services, in substantially the form attached and presented as Exhibit B to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 10th day of January, 2019.

CITY OF PANAMA CITY BEACH

By: 
Mike Thomas, Mayor

ATTEST: 
Jo Smith, City Clerk

**MASTER SERVICES AGREEMENT
BETWEEN
CITY OF PANAMA CITY BEACH AND THOMPSON CONSULTING SERVICES
RELATING TO
DISASTER DEBRIS MONITORING SERVICES**

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation ("City") and **THOMPSON CONSULTING SERVICES** ("Contractor").

In consideration of the following covenants, it is agreed:

1. SCOPE OF PROFESSIONAL SERVICES:

A. The Contractor's Scope of Work for providing services under this Agreement is set forth in Exhibit A. The Consultant shall provide Services for the City in all phases of the Project to which this AGREEMENT applies as hereinafter provided, and shall do so within the budget established by the City. The Consultant shall perform any and all Professional Services in a timely, efficient and cost effective manner and in accordance with the generally accepted standards of the applicable profession. The City retains the Consultant to diligently, competently and timely perform the "Professional Services" in connection with the Project in accordance with the provisions of this Agreement, applicable state codes and municipal ordinances, and in accordance with the Request for Proposal (RFP) document, and any and all addenda, modifications and revisions thereto.

B. Upon request, Contractor will prepare a detailed, project specific scope of work for each task and phase of work to be undertaken in accordance with the general scope of services described in this agreement. The proposed scope of work shall include a schedule for the work and, separately stated, a proposed fee. The proposed fee shall be (i) a stipulated sum or (ii) a stipulated sum plus one or more specified allowances which may be authorized by the City Manager or his or her designee, or (iii) a fee determined on a time-involved basis with a maximum not to exceed cost.

C. If accepted by the City, the proposed scope of work shall be incorporated into a task order in materially the form set forth as Exhibit B (each a "Task Order"). Each Task Order shall be numbered and dated, incorporate this Agreement and any additional terms related to that specific Task Order, and shall be signed both by the City and by the Contractor. If a term herein conflicts with a term in a Task Order, the term in the Task Order shall control to the extent of such conflict.

D. Contractor acknowledges that this agreement is non-exclusive and that the City may, in its sole and unfettered discretion enter agreements with one or more firms to assist the City with Disaster Debris Monitoring. Selection by the City as a Contractor does

Exhibit A

not guarantee that Contractor will be activated or called on a regular basis during the Agreement term, not does it guarantee a minimum level of compensation with respect to volume of work or fees. Work will be awarded to Contractors based on Contractor's current workload or availability, expertise in the project area and previous work awarded, all at the City's discretion.

E. This is a FEMA financially assisted project and is subject to all provisions for Federal Regulations Contract Requirements 2C.F.R.§200.317-326 for Debris Removal Services (attached hereto as Exhibit C) and shall comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity. The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this contract.

2. COMPENSATION AND PAYMENT:

A. Contractor's compensation for the services described in each scope of work shall be stated or incorporated in the Task Order related to that scope.

B. Upon written instruction by the City, the Contractor shall perform additional work necessary or convenient to complete the services for which a Task Order is entered, and which are mentioned or referenced in this Agreement. The Contractor shall be entitled to additional compensation unless such work is required as a result of error, omission, or negligence by the Contractor. The additional compensation shall be computed by the Contractor on a revised fee quotation proposal and submitted to the City for written approval. If the parties cannot agree, Contractor's initial compensation will be such amount as the City shall determine in good faith to be the fair value of such services, and such amounts shall be paid to Contractor in monthly installments as set forth elsewhere in this Agreement. In the event the City shall unilaterally determine the amount to be paid for such services, Contractor shall have the right, to be exercised by written notice delivered to the City within twenty (20) days after the City Council shall unilaterally determine such amount, to have the value of such services determined by binding arbitration pursuant to the Florida Arbitration Code and in accordance with the rules of the American Arbitration Association. The Contractor and the City each shall select one arbitrator and those two shall select a third. Each arbitrator shall be familiar by trade or occupation with disaster debris removal and disposal services. The decision of any two (2) arbitrators shall be conclusive and may be enforced in any court of competent jurisdiction in the State of Florida. Each party shall promptly pay when billed, including in advance, one-half of all arbitration fees and costs. The prevailing party shall recover from the other its reasonable attorney's fees and costs, including fees and costs incurred in arbitration and in any action in any court of competent jurisdiction in the State of Florida

to enforce the arbitration award, including appeal. Should the arbitrators award Contractor an amount equal to or less than the amount that the City has unilaterally determined, Contractor shall nonetheless be paid the amount unilaterally determined by the City but the City shall be deemed the prevailing party and Contractor shall pay the City's reasonable attorney's fees.

C. At the end of each month during which a Task Order shall be outstanding, the Contractor shall submit a separate invoice for services rendered during that month with respect to each Task Order, as follows:

- 1) Where a stipulated sum is specified, the City shall pay Contractor in monthly installments based upon the percentage of satisfactory completion. In support of payment, Contractor shall monthly submit a request for payment describing the work done, percentage of completion and amount requested to be paid, all by reference to line items in the scope of services where available.
- 2) Where fees are computed on a time-involved basis, the City shall pay Contractor monthly in arrears upon receipt of an itemized statement in form and detail reasonably acceptable to City.

D. The acceptance by the Contractor, its successors, or assigns, of any Final Payment due upon the termination of this Agreement, shall constitute a full and complete release of the City from any and all claims or demands regarding further compensation for authorized Services rendered prior to such Final Payment that the Contractor, its successors, or assigns have or may have against the City under the provisions of this Agreement. This Section does not affect any other portion of this Agreement that extends obligations of the parties beyond Final Payment.

3. SCHEDULE: The estimated schedule for the services required shall be included in each Task Order and related scope of services.

4. CITY'S RESPONSIBILITY: The City shall furnish the Contractor with all existing information available and useful in connection with the proposed project now on file with the City which shall be returned to the City upon the completion of the services to be performed by the Contractor, unless such data are necessary for daily operations; then such forms of information shall be promptly duplicated by the Contractor and the originals returned to the City.

5. CITY'S DESIGNATED REPRESENTATIVE: It is understood and agreed that

the City designates the City Public Works Director or his or her designated representative to represent the City in all technical matters pertaining to and arising from the work and performance of this Agreement, whose responsibility shall include:

A. Examination of all reports, drawings, cost estimates, proposals and other documents presented by the Contractor, and rendering in writing decisions pertaining thereto within a reasonable time so as not to materially delay the work of the Contractor.

B. Transmission of instructions, receipt of information, interpretation, and definition of City policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.

C. Give prompt written notice to the Contractor whenever the City observes or otherwise becomes aware of any defects or changes necessary in the Project.

6. CHANGES IN SCOPE: The City may, from time to time, request changes in the scope of work. Such changes, including any increase or decrease in the amount of the Contractor's compensation, shall not be binding unless mutually agreed upon by and between the City and the Contractor, and incorporated in written amendments to this Agreement.

7. TERMINATION:

A. The City may terminate this contract at any time for cause and may also terminate this Contract with or without cause by giving at least thirty (30) days' prior written notice to Contractor. The Contractor may terminate this contract at any time by giving at least ninety (90) days prior written notice to the City.

B. In the event of such termination, the parties shall be entitled to the rights and remedies provided by law. If the City wrongfully terminates this Agreement, the City shall be responsible to Contractor solely for the reasonable value of the work performed by the Contractor prior to the City's wrongful action, including reasonable overhead and profit on the work performed, less prior payments made. Under no circumstances shall Contractor be entitled to overhead and profit on work not performed.

8. TERM: Unless terminated sooner pursuant to the provisions of the "TERMINATION" clauses contained in Paragraph 7 of this Agreement, and subject to the availability of appropriated funds, this Agreement shall take effect on the day and year first above written for an initial term of five (5) years.

9. INDEMNIFICATION:

A. The Contractor hereby does indemnify and hold harmless the City, and its officers and employees, from any and all claims, suits, actions, damages, liabilities, expenditures, or causes of action of any kind, losses, penalties, interest, demands,

judgments, and costs of suit, including attorneys' fees and paralegals' fees, for any expenses, damage or liability incurred by any of them, whether for bodily or personal injury, death, property damage, direct or consequential damages, or economic loss, including environmental impairment, arising directly or indirectly, on account of or in connection with Contractor's performance of the contract or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Contractor, or by any other person.

B. The parties understand and agree that such indemnification by the Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Contract and any statutes of limitations thereafter.

C. The Contractor's obligation shall not be limited by or in any way to any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

10. DUTY TO PAY DEFENSE COSTS AND EXPENSES:

A. The Contractor agrees to reimburse and pay on behalf of the City the cost of the City legal defense, through and including all appeals, and to include all attorneys' fees, costs, and expenses of any kind for any and all 1) claims described in the Hold Harmless and Indemnification paragraph or 2) other claims arising out of the Contractor's performance of the Contract and in which the City has prevailed.

B. The City shall choose its legal defense team, experts, and consultants and invoice the Contractor accordingly for all fees, costs and expenses upon the conclusion of the claim.

C. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

11. INSURANCE AND PERFORMANCE SECURITY:

A. The Contractor shall not commence work under this Agreement until it has obtained all insurance and bonds required and provided same to the City.

B. The Contractor shall procure and maintain during the life of this Agreement insurance of the following types:

- 1) **Worker's Compensation:** For all of his employees engaged in work on the project under this Agreement. In case any employee engaged in hazardous work on the project is not protected under the Worker's Compensation Statute, the Contractor shall provide Employer's Liability Insurance for the

protection of such of his employees not otherwise protected under such provisions.

Coverage A – Worker’s Compensation - Statutory
Coverage B – Employer’s Liability - \$1,000,000.00

- 2) Liability: Comprehensive General Liability insurance including, but not limited to:
 - a) Independent Contractor’s Liability;
 - b) Contractual Liability;
 - c) Personal Injury Liability.

The minimum primary limits shall be no less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate Personal Injury Liability, and no less than \$500,000 Property Damage Liability, or \$2,000,000 Combined Single Limit Liability, or higher limits if required by any Excess Liability Insurer. City shall be named as additional insured pursuant to an additional insured endorsement on ISO Form 20 10 10 01 (or superseding form) providing comprehensive general liability coverage for completed operations in addition to on-going operations.

- 3) Automobile Liability: Automobile Liability insurance including all owned, hired, and non-owned automobiles. The minimum primary limits shall be no less than \$1,000,000 Bodily Injury Liability, and no less than \$1,000,000 Property Damage Liability, or no less than \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess Liability Insurer. City shall be named as additional insured.
- 4) Professional Liability: Project specific Professional Liability insurance covering professional services rendered in accordance with this Agreement in an amount not less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate.

C. Certificates of Insurance: The Contractor shall furnish to the City copies of all policies and endorsements and certificates of insurance allowing thirty (30) days written notice of any change in limits or scope of coverage, cancellation, or non-renewal. Such certificates shall contain the following wording: “SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN.” In the event (1) the ACORD form does not include the forgoing provision in the certificate, (2) the City has been provided a copy of a policy endorsement naming the City

as additional insured (on the general liability and automobile liability insurance policies) and (3) the policy endorsement in favor of the City (for the workers compensation, general liability and automobile liability insurance policies) expressly provides that the City be given thirty (30) days written notice before an amendment in limits or scope of coverage or cancellation, then the following wording may be substituted "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS." If the insurance policies expire during the term of this Agreement, a renewal certificate shall be filed with the City thirty (30) days prior to the renewal date.

D. Contractor agrees to furnish to the City a performance/contract surety bond in the amount equal to one hundred ten percent (110%) each for the estimated value of the assigned disaster related work within seventy-two (72) hours after written notice to proceed. Such performance security shall be in a form and issued by a surety, financial institution, or other entity acceptable to the City. City may require the posting of additional performance security as a result of any increase in the performance of the disaster event. The contractor shall obtain and deliver such additional security to the City within seventy two hours after receipt of the written request therefore.

12. NEGOTIATION DATA:

The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or any other consideration upon or resulting from the award of this agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct the contract price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

13. OWNERSHIP OF DOCUMENTS: It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications, and all other data in whatever form (text, graphic, digital or other electronic), prepared or obtained by the Contractor in connection with its services hereunder shall always be the property of the City and shall be delivered to the City promptly without cost or lien upon request or termination of this Agreement by lapse of time or otherwise. The Contractor shall not be liable for any use by the City of project specific design documentation if modified in any manner without written approval of the Contractor. The City shall not use the Contractor's project specific design documentation on any project other than the project described in the Scope of Work and Instructions to Respondents unless the City notifies the Contractor of its intended use, provides insurance protection for the Contractor for all claims which might arise out of the City's use of the documents, and obtains written consent of the use

by the Contractor.

When transferring data in electronic media format, Contractor makes no representation as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Contractor at the beginning of the Project. Because the data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Contractor shall not be responsible to maintain documents stored in electronic media format after acceptance by City. The original hard copy of the documents containing the professional Contractor's seal shall take precedence over the electronic documents.

Notwithstanding any provision to the contrary contained in this Agreement, Contractor shall retain sole ownership to its pre-existing computer programs and software.

14. WORK COMMENCEMENT/PROGRESS/DELAYS:

A. The services to be rendered by the Contractor shall commence upon execution of this Agreement, and the respective Task Order, and upon written notice to proceed from the City Manager of his or her designee.

B. The Contractor agrees to abide by the schedule for performance of the contracted services. The City will be entitled at all times to be advised in writing at its request as to the status of the work being done by the Contractor, and of the details thereof. City may require specification of liquidated delay damages in a Task Order. Failure to specify liquidated delay damages in a Task Order shall not relieve Contractor of liability for delays or other damages as provided by law.

C. In the event there are delays on the part of the City or regulatory agencies as to the approval of any of the plans, permits and drafts of special provisions submitted by the Contractor which delay the project schedule completion date, the City shall grant to the Contractor in writing an extension of time equal to such delays.

D. The Contractor shall maintain an adequate and competent staff of personnel and may associate with other qualified firms for the purpose of rendering services hereunder. All of the services required herein shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The Contractor, shall not sublet, assign, or transfer any work under this Agreement without the written consent of the City. Contractor shall utilize the

US Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of: 1. All persons employed by the Contractor during the term of the Contract to perform employment duties within Florida; and 2. All persons, including subcontractors, assigned by the Contractor to perform work pursuant to the contract with the City.

15. STANDARDS OF CONDUCT:

A. The Contractor covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

B. The Contractor agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The Contractor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

16. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: The Contractor shall comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

17. ASSIGNABILITY: The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of the City, provided that claims for the money due or to become due the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution, or to a trustee in bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

18. INDEPENDENT CONTRACTOR: The Contractor is and shall remain an independent contractor and not an employee of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees or agents of the City. The Contractor does not have the power or authority to bind the City in any promise, agreement or representation.

19. CONTROLLING LAW AND VENUE: All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of Florida applicable to contracts made and to be performed within this state. Exclusive jurisdiction and venue to interpret or resolve any dispute under this Agreement shall lie in the Circuit Court, Fourteenth Judicial Circuit, in and for Bay County, Florida.

20. ATTORNEY'S FEES: If the either party is required to institute or defend any legal proceedings in connection with this Agreement, the prevailing party shall be entitled to its costs thereof, together with reasonable attorney's fees.

21. NO WAIVER: No waiver of any provision of this Agreement shall be effective unless made in writing, signed by the party against whom it is charged. No waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement, nor of the same provision in the future. Neither the failure nor any delay by any party in exercising any right or power under this Agreement, nor any course of dealing between or among the parties, will operate as a waiver of such right or power, and no single or partial exercise of any such right or power will preclude any other or further exercise of such right or power or the exercise of any other right or power.

22. COOPERATION: Contractor acknowledges that the performance of disaster debris removal and disposal services and addressing the needs of the community, and coordinating those efforts with other disciplines is a multi-disciplinary effort which will require cooperation and collaboration with numerous consultants, Contractors, and counsel assisting and advising the city, as well as direction from the City Manager and City Contractor, and agrees in all things to cooperate with the City and all its consultants as needed.

23. MEDIATION: City and Contractor agree to attempt to resolve any dispute between them related to the interpretation or performance of this Agreement by mediation in Bay County, Florida, with a mutually acceptable, certified Florida Mediator to serve at joint expense. If the parties are unable to agree upon a mediator, either party shall request the appointment of a mediator by the Chief Judge of the Circuit Court, Fourteenth Judicial Circuit in and for Bay County, Florida. Mediation contemplated by this paragraph is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. Any settlement will require approval of City's governing board. If the parties are unable to reach a mediated settlement within ninety (90) days of the mediator's appointment, either party may terminate the settlement discussions by written notice to the other and initiate litigation. Any litigation commenced in violation of this section shall be stayed pending mediation as agreed. This section shall survive termination of this Agreement.

24. ACCESS TO RECORDS:

A. The Contractor agrees to provide the City, the State of Florida Division of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor acknowledges that this duty to provide paperwork may arise up to 5 years following completion of the project, and agrees to retain project paperwork for that time period.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

25. PUBLIC RECORDS: The City is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that Contractor is acting on behalf of City as provided under Section 119.011(2) (2017) and implemented through the judicially established "totality of factors" analysis, Contractor agrees to also comply with that law, specifically including to:

A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

B. Upon request of the City, provide the public with access to public records on the same terms and conditions that the City would provide the records and 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.

D. Meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

E. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, IT IS THE

CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, AND TO CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 850-233-5100, JSMITH@PCBGOV.COM, 110 S. ARNOLD ROAD, PANAMA CITY BEACH, FL 32413.

26. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to the subject matters. All prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. Any alterations or variations of the terms of this Agreement shall not be valid unless made in writing and signed by the parties. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or unenforceable, then, notwithstanding, the remainder of the Agreement shall remain in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have hereto caused the execution of these documents as of the year and date first above written.

**THE CITY OF PANAMA CITY BEACH,
FLORIDA,**
a municipal corporation

By: _____
Mario Gisbert, City Manager

ATTEST:

Jo Smith, City Clerk

THOMPSON CONSULTING SERVICES

WITNESS
PRINT NAME: _____

By: _____
Its: _____

WITNESS
PRINT NAME: _____

EXHIBIT A

SCOPE OF SERVICES SCOPE OF WORK SCOPE OF SERVICES SCOPE OF WORK

General

Provide debris monitors and debris monitoring services to assist the City with monitoring the operations of the disaster debris removal and disposal contractor(s). The debris monitoring services to be provided are contract compliance supervision and inspection, not professional engineering services. All debris monitoring activities are to be in compliance with current FEMA guidance and local, State, and Federal regulations.

Deployment

Consultant must be prepared to deploy debris monitors within 24 hours from the notice to proceed. When additional debris monitoring is needed to meet requirements of the monitoring contract, consultant shall be prepared to increase the number of debris monitors for the City to use as needed.

Consultant's specific scope of work, level of effort, time schedule, charges, and payment conditions shall be set forth in a written Task Order. Each Task Order shall be executed by authorized representatives of the City and Consultant.

The administrative process, when work assignments are issued, will be as follows:

Step 1 - City staff will contact the Consultant for a meeting to review the assignment and will describe the scope of services required in general.

Step 2 - Consultant will prepare a detailed scope of services to be provided and a time frame for completion of various phases. Consultant will prepare a computation of fees to be charged for the services based on the approved hourly rates. These documents will be submitted to the City contact for review and approval.

Step 3 - If acceptable to City staff making the assignment, City staff will issue a Task Order (or Work Request) and a Notice to Proceed. There will be a purchase order issued for each work assignment for monitoring and tracking of the budget and project funds. The fee computation will be considered to be a limiting amount, not to be exceeded without subsequent approval by City staff.

Pre-Event Requirements

Contractor will provide assistance in preparation for disasters through participation in meetings and workshops and the establishment of data management and other integrated systems.

Contractor will, at no cost to the City:

- Provide City full-time personnel with a half-day debris management training session. Training program must, at a minimum, meet the training requirement for debris monitors as outlined by current FEMA debris management guidance.

- Provide a list of key personnel and subcontractors that may be involved in the disaster debris monitoring activities to include facsimile, cell phone numbers, and e-mail addresses.
- Participate in annual workshops or planning meetings with City representative and debris hauling and disposal contractor(s) to establish/review applicable policies and procedures.

Post-Event Requirements

Contractor will assist with load inspections for storm debris cleanup being performed by one or more debris hauling and disposal contractors or City agencies.

Contractor shall supply sufficient number of trained debris monitors and trained field supervisors to accommodate the volume of debris to be removed at loading sites and debris management sites or final disposal sites.

Contractor shall supply one field supervisor to oversee no more than 10 loading and tower/site debris monitors.

Contractor shall remove and replace employees immediately upon notice from the City Debris Manager for conduct or actions not in keeping with this contract.

Personnel Requirement and Responsibilities

Debris Monitoring Field Supervisor

Consultant will provide one debris monitoring field supervisor for no more than 10 debris loading site debris monitors. Services include, but are not limited to:

- Overseeing and supervising loading site and disposal site debris monitoring activities
- Scheduling debris monitoring resources and deployment timing
Communicating and coordinating with City personnel
- Providing suggestions to improve the efficiency of collection and removal of debris
- Coordinating daily activities and future planning
- Remaining in contact with debris management/dispatch center or supervisor
- Identifying, addressing, and troubleshooting any questions or problems that could affect work area safety and eligibility
- Supervising the accurate measurement of load hauling compartments and accurately computing volume capacity in cubic yards (CY)
- Documenting and recording measurements and computations
- Documenting truck hauling compartment condition using digital photographs

- Preparing a master log book of all hauling equipment used by the City's debris removal contractor
- Compiling, reconciling, and documenting daily, in an electronic spreadsheet format, all eligible debris hauled by the debris removal contractor(s)

Debris Monitors

Consultant will provide trained debris monitoring personnel to oversee the loading of eligible debris at collection sites and verification of load capacity and documentation at designated temporary debris management or final disposal sites. Services include, but are not limited to:

Debris Loading Site Monitors

Consultant will perform on-site, street-level debris monitoring at all contractor loading sites to verify debris eligibility based on the monitoring contract's requirements and initiate debris removal documentation using load tickets. Services include, but are not limited to:

- Providing trained debris monitoring personnel at designated loading sites to check and verify information on debris removal operations
- Monitoring collection activity of trucks
- Issuing load tickets at loading site for each load
- Checking the area for safety considerations such as downed power lines and children playing in area, and ensuring that traffic control needs are met and trucks and equipment are operated safely
- Ensuring that Freon-containing appliances are sorted and ready for Freon removal on-site or separating transport for Freon removal before final disposal
- Performing a pre-work inspection of areas to identify potential problems such as covered utility meters, transformers, fire hydrants, mail boxes, etc. to mitigate damage from loading equipment
- Documenting damage to utility components, driveways, road surfaces, private property, vehicles, etc., should it occur, with photographs (if possible, collect information about owner, circumstances of the damage [who, what, when, where] and report to field supervisor)
- Ensuring the work area is clear of debris to the specified level before equipment is moved to a new loading area
- Properly monitoring and recording performance and productivity of debris removal crew
- Remaining in regular contact with debris management/dispatch center or supervisor
- Ensuring that loads are contained properly before leaving the loading area

- Ensuring that only eligible debris is collected for loading and hauling
- Ensuring that only debris from approved public areas is loaded for removal
- Performing other duties from time to time as directed by the debris management project manager or designated debris management personnel

Debris Tower/Site Monitors

Consultant will provide debris tower and site monitors to verify estimated quantities of eligible debris hauled by contractor trucks and documented on load tickets. Services include, but are not limited to:

- Providing trained debris monitoring personnel to accurately measure load hauling compartments and accurately compute volume capacity in CY for all contractor trucks and trailers prior to commencement of debris hauling operations

- Documenting measurements and computations

Completing record of contract haulers' cubic yardage and other recordkeeping as needed on the load ticket

- Initialing each load ticket before permitting trucks to proceed from the check-in area to the tipping area

- Remaining in regular contact with debris management/dispatch center or field supervisor

- Performing other duties as directed by the dispatch/staging operation, debris management project manager, or other designated personnel

Clerical/Data Entry Supervisor

- Consultant will provide a clerical/data entry supervisor to coordinate data entry and information management systems. Services include, but are not limited to:

- Supervising the preparation of detailed estimates and submitting them to the City debris manager

- Implementing and maintaining an electronic, disaster debris data management system linking the load ticket and debris management site information, including reconciliation and photographic documentation processes

- Providing daily, weekly, or other periodic reports in electronic format for the City debris manager noting work progress and efficiency, current/revised estimates, project completion, and other schedule forecasts/updates

Clerical Staff/Data Entry Clerk

Consultant will provide clerical staff/data entry clerk(s) as required to enter load ticket information into the contractor's information management systems and to respond to specific directions from the data entry supervisor.

EXHIBIT B
COMBINED TASK ORDER AND
NOTICE TO PROCEED

TASK ORDER NO. _____

DATE

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND THOMPSON CONSULTING SERVICES RELATING TO DISASTER DEBRIS REMOVAL, REDUCTION AND HAULING SERVICES dated _____, 2019, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Contractor agrees to perform the specific tasks set forth upon incorporated Attachment A, Scope of Services, relating to _____.

Contractor's total compensation shall be (check one):

_____ a stipulated sum of \$ _____; or
_____ a stipulated sum of \$ _____ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his or her designee,

Allowance of \$ _____ for _____, and

Allowance of \$ _____ for _____; or

_____ a fee determined on a time-involved basis with a maximum not to exceed cost of \$ _____;

as set forth upon incorporated Attachment B, Fee Breakdown, and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on _____, 20__, and shall be completed within _____ calendar days. The date of completion of all work is therefore _____, 20__. Liquidated delay damages, if any, are set at the rate of \$ _____ per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both Contractor and City, Contractor is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

THOMPSON CONSULTING SERVICES

By: _____ Date: _____
Its:

CITY OF PANAMA CITY BEACH, FLORIDA

ATTEST:

City Clerk

By: _____ Date: _____
City Manager

EXHIBIT C

FEDERAL REGULATIONS CONTRACT REQUIREMENTS 2 C.F.R §200.317-326 FOR DEBRIS REMOVAL SERVICES

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The awarded contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to the awarded contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

PROCUREMENT OF RECOVERED MATERIALS

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

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.

TERMINATION FOR CONVENIENCE

The City may terminate any awarded contract at any time for any reason by giving at least thirty (30) days notice in writing to the awarded bidder. If the contract is terminated by the City as provided herein, the awarded bidder will be entitled to receive payment for those services reasonably performed to the date of termination.

TERMINATION FOR CAUSE

If the awarded bidder fails to comply with any of the terms and conditions of the awarded contract, the City may give notice, in writing, to the awarded bidder of any or all deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If all defaults are not cured and corrected within a reasonable period as specified in the notice, the City may, with no further notice, declare the awarded contract to be terminated. The awarded bidder will thereafter be entitled to receive payment for those services reasonably performed to the date of termination, less the amount of reasonable damages suffered by the City by reason of the awarded bidder's failure to comply with the awarded contract.

Notwithstanding the above, the awarded bidder is not relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by the awarded bidder and the City may withhold any payments to the awarded bidder for the purpose of setoff until such time as the amount of damages due the City from the awarded bidder is determined.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

(1) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps must include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

EQUAL OPPORTUNITY CLAUSES

Compliance with Regulations: The contractor shall comply with the Acts and the Regulations relative to Nondiscrimination in federally-assisted programs, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

During the performance of any awarded "federally assisted contracts" the contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for

further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH DAVIS-BACON ACT

(1) Contractor. The contractor shall comply with 40 U.S.C. § 3141 – 3144 and 3146 - 3148, as supplemented by Department of Labor regulations 29 C.F.R. pt. 5 as may be applicable, which are incorporated by reference into this contract.

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

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

COMPLIANCE WITH COPELAND “ANTI-KICKBACK” ACT

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

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

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

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT 40 U.S.C. 3702 AND 3704, AS SUPPLEMENTED BY DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 5)

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including

watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City 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 Disaster Debris Disposal and Removal Services 53 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.

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

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

CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

ENERGY EFFICIENCY AND CONSERVATION ACT

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Energy Policy and Conservation Act (42 U.S.C. 6201) and the provisions of the state Energy Conservation Plan adopted pursuant thereto.

SUSPENSION AND DEBARMENT

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida Division of Emergency Management and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/ or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the Disaster Debris Disposal and Removal Services period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BYRD ANTI-LOBBYING AMENDMENT 31 U.S.C. § 1352 (AS AMENDED)

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**MASTER SERVICES AGREEMENT
BETWEEN
CITY OF PANAMA CITY BEACH AND DEBRIS TECH
RELATING TO
DISASTER DEBRIS MONITORING SERVICES**

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation ("City") and **DEBRIS TECH** ("Contractor").

In consideration of the following covenants, it is agreed:

1. SCOPE OF PROFESSIONAL SERVICES:

A. The Contractor's Scope of Work for providing services under this Agreement is set forth in Exhibit A. The Consultant shall provide Services for the City in all phases of the Project to which this AGREEMENT applies as hereinafter provided, and shall do so within the budget established by the City. The Consultant shall perform any and all Professional Services in a timely, efficient and cost effective manner and in accordance with the generally accepted standards of the applicable profession. The City retains the Consultant to diligently, competently and timely perform the "Professional Services" in connection with the Project in accordance with the provisions of this Agreement, applicable state codes and municipal ordinances, and in accordance with the Request for Proposal (RFP) document, and any and all addenda, modifications and revisions thereto.

B. Upon request, Contractor will prepare a detailed, project specific scope of work for each task and phase of work to be undertaken in accordance with the general scope of services described in this agreement. The proposed scope of work shall include a schedule for the work and, separately stated, a proposed fee. The proposed fee shall be (i) a stipulated sum or (ii) a stipulated sum plus one or more specified allowances which may be authorized by the City Manager or his or her designee, or (iii) a fee determined on a time-involved basis with a maximum not to exceed cost.

C. If accepted by the City, the proposed scope of work shall be incorporated into a task order in materially the form set forth as Exhibit B (each a "Task Order"). Each Task Order shall be numbered and dated, incorporate this Agreement and any additional terms related to that specific Task Order, and shall be signed both by the City and by the Contractor. If a term herein conflicts with a term in a Task Order, the term in the Task Order shall control to the extent of such conflict.

D. Contractor acknowledges that this agreement is non-exclusive and that the City may, in its sole and unfettered discretion enter agreements with one or more firms to assist the City with Disaster Debris Monitoring. Selection by the City as a Contractor does

Exhibit B

not guarantee that Contractor will be activated or called on a regular basis during the Agreement term, not does it guarantee a minimum level of compensation with respect to volume of work or fees. Work will be awarded to Contractors based on Contractor's current workload or availability, expertise in the project area and previous work awarded, all at the City's discretion.

E. This is a FEMA financially assisted project and is subject to all provisions for Federal Regulations Contract Requirements 2C.F.R.§200.317-326 for Debris Removal Services (attached hereto as Exhibit C) and shall comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity. The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this contract.

2. COMPENSATION AND PAYMENT:

A. Contractor's compensation for the services described in each scope of work shall be stated or incorporated in the Task Order related to that scope.

B. Upon written instruction by the City, the Contractor shall perform additional work necessary or convenient to complete the services for which a Task Order is entered, and which are mentioned or referenced in this Agreement. The Contractor shall be entitled to additional compensation unless such work is required as a result of error, omission, or negligence by the Contractor. The additional compensation shall be computed by the Contractor on a revised fee quotation proposal and submitted to the City for written approval. If the parties cannot agree, Contractor's initial compensation will be such amount as the City shall determine in good faith to be the fair value of such services, and such amounts shall be paid to Contractor in monthly installments as set forth elsewhere in this Agreement. In the event the City shall unilaterally determine the amount to be paid for such services, Contractor shall have the right, to be exercised by written notice delivered to the City within twenty (20) days after the City Council shall unilaterally determine such amount, to have the value of such services determined by binding arbitration pursuant to the Florida Arbitration Code and in accordance with the rules of the American Arbitration Association. The Contractor and the City each shall select one arbitrator and those two shall select a third. Each arbitrator shall be familiar by trade or occupation with disaster debris removal and disposal services. The decision of any two (2) arbitrators shall be conclusive and may be enforced in any court of competent jurisdiction in the State of Florida. Each party shall promptly pay when billed, including in advance, one-half of all arbitration fees and costs. The prevailing party shall recover from the other its reasonable attorney's fees and costs, including fees and costs incurred in arbitration and in any action in any court of competent jurisdiction in the State of Florida

to enforce the arbitration award, including appeal. Should the arbitrators award Contractor an amount equal to or less than the amount that the City has unilaterally determined, Contractor shall nonetheless be paid the amount unilaterally determined by the City but the City shall be deemed the prevailing party and Contractor shall pay the City's reasonable attorney's fees.

C. At the end of each month during which a Task Order shall be outstanding, the Contractor shall submit a separate invoice for services rendered during that month with respect to each Task Order, as follows:

- 1) Where a stipulated sum is specified, the City shall pay Contractor in monthly installments based upon the percentage of satisfactory completion. In support of payment, Contractor shall monthly submit a request for payment describing the work done, percentage of completion and amount requested to be paid, all by reference to line items in the scope of services where available.
- 2) Where fees are computed on a time-involved basis, the City shall pay Contractor monthly in arrears upon receipt of an itemized statement in form and detail reasonably acceptable to City.

D. The acceptance by the Contractor, its successors, or assigns, of any Final Payment due upon the termination of this Agreement, shall constitute a full and complete release of the City from any and all claims or demands regarding further compensation for authorized Services rendered prior to such Final Payment that the Contractor, its successors, or assigns have or may have against the City under the provisions of this Agreement. This Section does not affect any other portion of this Agreement that extends obligations of the parties beyond Final Payment.

3. SCHEDULE: The estimated schedule for the services required shall be included in each Task Order and related scope of services.

4. CITY'S RESPONSIBILITY: The City shall furnish the Contractor with all existing information available and useful in connection with the proposed project now on file with the City which shall be returned to the City upon the completion of the services to be performed by the Contractor, unless such data are necessary for daily operations; then such forms of information shall be promptly duplicated by the Contractor and the originals returned to the City.

5. CITY'S DESIGNATED REPRESENTATIVE: It is understood and agreed that

the City designates the City Public Works Director or his or her designated representative to represent the City in all technical matters pertaining to and arising from the work and performance of this Agreement, whose responsibility shall include:

A. Examination of all reports, drawings, cost estimates, proposals and other documents presented by the Contractor, and rendering in writing decisions pertaining thereto within a reasonable time so as not to materially delay the work of the Contractor.

B. Transmission of instructions, receipt of information, interpretation, and definition of City policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.

C. Give prompt written notice to the Contractor whenever the City observes or otherwise becomes aware of any defects or changes necessary in the Project.

6. CHANGES IN SCOPE: The City may, from time to time, request changes in the scope of work. Such changes, including any increase or decrease in the amount of the Contractor's compensation, shall not be binding unless mutually agreed upon by and between the City and the Contractor, and incorporated in written amendments to this Agreement.

7. TERMINATION:

A. The City may terminate this contract at any time for cause and may also terminate this Contract with or without cause by giving at least thirty (30) days' prior written notice to Contractor. The Contractor may terminate this contract at any time by giving at least ninety (90) days prior written notice to the City.

B. In the event of such termination, the parties shall be entitled to the rights and remedies provided by law. If the City wrongfully terminates this Agreement, the City shall be responsible to Contractor solely for the reasonable value of the work performed by the Contractor prior to the City's wrongful action, including reasonable overhead and profit on the work performed, less prior payments made. Under no circumstances shall Contractor be entitled to overhead and profit on work not performed.

8. TERM: Unless terminated sooner pursuant to the provisions of the "TERMINATION" clauses contained in Paragraph 7 of this Agreement, and subject to the availability of appropriated funds, this Agreement shall take effect on the day and year first above written for an initial term of five (5) years.

9. INDEMNIFICATION:

A. The Contractor hereby does indemnify and hold harmless the City, and its officers and employees, from any and all claims, suits, actions, damages, liabilities, expenditures, or causes of action of any kind, losses, penalties, interest, demands,

judgments, and costs of suit, including attorneys' fees and paralegals' fees, for any expenses, damage or liability incurred by any of them, whether for bodily or personal injury, death, property damage, direct or consequential damages, or economic loss, including environmental impairment, arising directly or indirectly, on account of or in connection with Contractor's performance of the contract or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Contractor, or by any other person.

B. The parties understand and agree that such indemnification by the Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Contract and any statutes of limitations thereafter.

C. The Contractor's obligation shall not be limited by or in any way to any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

10. DUTY TO PAY DEFENSE COSTS AND EXPENSES:

A. The Contractor agrees to reimburse and pay on behalf of the City the cost of the City legal defense, through and including all appeals, and to include all attorneys' fees, costs, and expenses of any kind for any and all 1) claims described in the Hold Harmless and Indemnification paragraph or 2) other claims arising out of the Contractor's performance of the Contract and in which the City has prevailed.

B. The City shall choose its legal defense team, experts, and consultants and invoice the Contractor accordingly for all fees, costs and expenses upon the conclusion of the claim.

C. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

11. INSURANCE AND PERFORMANCE SECURITY:

A. The Contractor shall not commence work under this Agreement until it has obtained all insurance and bonds required and provided same to the City.

B. The Contractor shall procure and maintain during the life of this Agreement insurance of the following types:

- 1) **Worker's Compensation:** For all of his employees engaged in work on the project under this Agreement. In case any employee engaged in hazardous work on the project is not protected under the Worker's Compensation Statute, the Contractor shall provide Employer's Liability Insurance for the

protection of such of his employees not otherwise protected under such provisions.

Coverage A – Worker’s Compensation - Statutory
Coverage B – Employer’s Liability - \$1,000,000.00

- 2) Liability: Comprehensive General Liability insurance including, but not limited to:
 - a) Independent Contractor’s Liability;
 - b) Contractual Liability;
 - c) Personal Injury Liability.

The minimum primary limits shall be no less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate Personal Injury Liability, and no less than \$500,000 Property Damage Liability, or \$2,000,000 Combined Single Limit Liability, or higher limits if required by any Excess Liability Insurer. City shall be named as additional insured pursuant to an additional insured endorsement on ISO Form 20 10 10 01 (or superseding form) providing comprehensive general liability coverage for completed operations in addition to on-going operations.

- 3) Automobile Liability: Automobile Liability insurance including all owned, hired, and non-owned automobiles. The minimum primary limits shall be no less than \$1,000,000 Bodily Injury Liability, and no less than \$1,000,000 Property Damage Liability, or no less than \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess Liability Insurer. City shall be named as additional insured.
- 4) Professional Liability: Project specific Professional Liability insurance covering professional services rendered in accordance with this Agreement in an amount not less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate.

C. Certificates of Insurance: The Contractor shall furnish to the City copies of all policies and endorsements and certificates of insurance allowing thirty (30) days written notice of any change in limits or scope of coverage, cancellation, or non-renewal. Such certificates shall contain the following wording: “SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN.” In the event (1) the ACORD form does not include the forgoing provision in the certificate, (2) the City has been provided a copy of a policy endorsement naming the City

as additional insured (on the general liability and automobile liability insurance policies) and (3) the policy endorsement in favor of the City (for the workers compensation, general liability and automobile liability insurance policies) expressly provides that the City be given thirty (30) days written notice before an amendment in limits or scope of coverage or cancellation, then the following wording may be substituted "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS." If the insurance policies expire during the term of this Agreement, a renewal certificate shall be filed with the City thirty (30) days prior to the renewal date.

D. Contractor agrees to furnish to the City a performance/contract surety bond in the amount equal to one hundred ten percent (110%) each for the estimated value of the assigned disaster related work within seventy-two (72) hours after written notice to proceed. Such performance security shall be in a form and issued by a surety, financial institution, or other entity acceptable to the City. City may require the posting of additional performance security as a result of any increase in the performance of the disaster event. The contractor shall obtain and deliver such additional security to the City within seventy two hours after receipt of the written request therefore.

12. NEGOTIATION DATA:

The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or any other consideration upon or resulting from the award of this agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct the contract price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

13. OWNERSHIP OF DOCUMENTS: It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications, and all other data in whatever form (text, graphic, digital or other electronic), prepared or obtained by the Contractor in connection with its services hereunder shall always be the property of the City and shall be delivered to the City promptly without cost or lien upon request or termination of this Agreement by lapse of time or otherwise. The Contractor shall not be liable for any use by the City of project specific design documentation if modified in any manner without written approval of the Contractor. The City shall not use the Contractor's project specific design documentation on any project other than the project described in the Scope of Work and Instructions to Respondents unless the City notifies the Contractor of its intended use, provides insurance protection for the Contractor for all claims which might arise out of the City's use of the documents, and obtains written consent of the use

by the Contractor.

When transferring data in electronic media format, Contractor makes no representation as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Contractor at the beginning of the Project. Because the data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Contractor shall not be responsible to maintain documents stored in electronic media format after acceptance by City. The original hard copy of the documents containing the professional Contractor's seal shall take precedence over the electronic documents.

Notwithstanding any provision to the contrary contained in this Agreement, Contractor shall retain sole ownership to its pre-existing computer programs and software.

14. WORK COMMENCEMENT/PROGRESS/DELAYS:

A. The services to be rendered by the Contractor shall commence upon execution of this Agreement, and the respective Task Order, and upon written notice to proceed from the City Manager of his or her designee.

B. The Contractor agrees to abide by the schedule for performance of the contracted services. The City will be entitled at all times to be advised in writing at its request as to the status of the work being done by the Contractor, and of the details thereof. City may require specification of liquidated delay damages in a Task Order. Failure to specify liquidated delay damages in a Task Order shall not relieve Contractor of liability for delays or other damages as provided by law.

C. In the event there are delays on the part of the City or regulatory agencies as to the approval of any of the plans, permits and drafts of special provisions submitted by the Contractor which delay the project schedule completion date, the City shall grant to the Contractor in writing an extension of time equal to such delays.

D. The Contractor shall maintain an adequate and competent staff of personnel and may associate with other qualified firms for the purpose of rendering services hereunder. All of the services required herein shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The Contractor, shall not sublet, assign, or transfer any work under this Agreement without the written consent of the City. Contractor shall utilize the

US Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of: 1. All persons employed by the Contractor during the term of the Contract to perform employment duties within Florida; and 2. All persons, including subcontractors, assigned by the Contractor to perform work pursuant to the contract with the City.

15. STANDARDS OF CONDUCT:

A. The Contractor covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

B. The Contractor agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The Contractor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

16. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: The Contractor shall comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

17. ASSIGNABILITY: The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of the City, provided that claims for the money due or to become due the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution, or to a trustee in bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

18. INDEPENDENT CONTRACTOR: The Contractor is and shall remain an independent contractor and not an employee of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees or agents of the City. The Contractor does not have the power or authority to bind the City in any promise, agreement or representation.

19. CONTROLLING LAW AND VENUE: All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of Florida applicable to contracts made and to be performed within this state. Exclusive jurisdiction and venue to interpret or resolve any dispute under this Agreement shall lie in the Circuit Court, Fourteenth Judicial Circuit, in and for Bay County, Florida.

20. ATTORNEY'S FEES: If the either party is required to institute or defend any legal proceedings in connection with this Agreement, the prevailing party shall be entitled to its costs thereof, together with reasonable attorney's fees.

21. NO WAIVER: No waiver of any provision of this Agreement shall be effective unless made in writing, signed by the party against whom it is charged. No waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement, nor of the same provision in the future. Neither the failure nor any delay by any party in exercising any right or power under this Agreement, nor any course of dealing between or among the parties, will operate as a waiver of such right or power, and no single or partial exercise of any such right or power will preclude any other or further exercise of such right or power or the exercise of any other right or power.

22. COOPERATION: Contractor acknowledges that the performance of disaster debris removal and disposal services and addressing the needs of the community, and coordinating those efforts with other disciplines is a multi-disciplinary effort which will require cooperation and collaboration with numerous consultants, Contractors, and counsel assisting and advising the city, as well as direction from the City Manager and City Contractor, and agrees in all things to cooperate with the City and all its consultants as needed.

23. MEDIATION: City and Contractor agree to attempt to resolve any dispute between them related to the interpretation or performance of this Agreement by mediation in Bay County, Florida, with a mutually acceptable, certified Florida Mediator to serve at joint expense. If the parties are unable to agree upon a mediator, either party shall request the appointment of a mediator by the Chief Judge of the Circuit Court, Fourteenth Judicial Circuit in and for Bay County, Florida. Mediation contemplated by this paragraph is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. Any settlement will require approval of City's governing board. If the parties are unable to reach a mediated settlement within ninety (90) days of the mediator's appointment, either party may terminate the settlement discussions by written notice to the other and initiate litigation. Any litigation commenced in violation of this section shall be stayed pending mediation as agreed. This section shall survive termination of this Agreement.

24. ACCESS TO RECORDS:

A. The Contractor agrees to provide the City, the State of Florida Division of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor acknowledges that this duty to provide paperwork may arise up to 5 years following completion of the project, and agrees to retain project paperwork for that time period.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

25. PUBLIC RECORDS: The City is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that Contractor is acting on behalf of City as provided under Section 119.011(2) (2017) and implemented through the judicially established “totality of factors” analysis, Contractor agrees to also comply with that law, specifically including to:

A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

B. Upon request of the City, provide the public with access to public records on the same terms and conditions that the City would provide the records and 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.

D. Meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

E. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, IT IS THE

CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, AND TO CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 850-233-5100, JSMITH@PCBGOV.COM, 110 S. ARNOLD ROAD, PANAMA CITY BEACH, FL 32413.

26. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to the subject matters. All prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. Any alterations or variations of the terms of this Agreement shall not be valid unless made in writing and signed by the parties. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or unenforceable, then, notwithstanding, the remainder of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereto caused the execution of these documents as of the year and date first above written.

**THE CITY OF PANAMA CITY BEACH,
FLORIDA,
a municipal corporation**

By: _____
Mario Gisbert, City Manager

ATTEST:

Jo Smith, City Clerk

DEBRIS TECH

WITNESS
PRINT NAME: _____

By: _____
Its: _____

WITNESS
PRINT NAME: _____

EXHIBIT A

SCOPE OF SERVICES SCOPE OF WORK

General

Provide debris monitors and debris monitoring services to assist the City with monitoring the operations of the disaster debris removal and disposal contractor(s). The debris monitoring services to be provided are contract compliance supervision and inspection, not professional engineering services. All debris monitoring activities are to be in compliance with current FEMA guidance and local, State, and Federal regulations.

Deployment

Consultant must be prepared to deploy debris monitors within 24 hours from the notice to proceed. When additional debris monitoring is needed to meet requirements of the monitoring contract, consultant shall be prepared to increase the number of debris monitors for the City to use as needed.

Consultant's specific scope of work, level of effort, time schedule, charges, and payment conditions shall be set forth in a written Task Order. Each Task Order shall be executed by authorized representatives of the City and Consultant.

The administrative process, when work assignments are issued, will be as follows:

Step 1 - City staff will contact the Consultant for a meeting to review the assignment and will describe the scope of services required in general.

Step 2 - Consultant will prepare a detailed scope of services to be provided and a time frame for completion of various phases. Consultant will prepare a computation of fees to be charged for the services based on the approved hourly rates. These documents will be submitted to the City contact for review and approval.

Step 3 - If acceptable to City staff making the assignment, City staff will issue a Task Order (or Work Request) and a Notice to Proceed. There will be a purchase order issued for each work assignment for monitoring and tracking of the budget and project funds. The fee computation will be considered to be a limiting amount, not to be exceeded without subsequent approval by City staff.

Pre-Event Requirements

Contractor will provide assistance in preparation for disasters through participation in meetings and workshops and the establishment of data management and other integrated systems.

Contractor will, at no cost to the City:

- Provide City full-time personnel with a half-day debris management training session. Training program must, at a minimum, meet the training requirement for debris monitors as outlined by current FEMA debris management guidance.

- Provide a list of key personnel and subcontractors that may be involved in the disaster debris monitoring activities to include facsimile, cell phone numbers, and e-mail addresses.
- Participate in annual workshops or planning meetings with City representative and debris hauling and disposal contractor(s) to establish/review applicable policies and procedures.

Post-Event Requirements

Contractor will assist with load inspections for storm debris cleanup being performed by one or more debris hauling and disposal contractors or City agencies.

Contractor shall supply sufficient number of trained debris monitors and trained field supervisors to accommodate the volume of debris to be removed at loading sites and debris management sites or final disposal sites.

Contractor shall supply one field supervisor to oversee no more than 10 loading and tower/site debris monitors.

Contractor shall remove and replace employees immediately upon notice from the City Debris Manager for conduct or actions not in keeping with this contract.

Personnel Requirement and Responsibilities

Debris Monitoring Field Supervisor

Consultant will provide one debris monitoring field supervisor for no more than 10 debris loading site debris monitors. Services include, but are not limited to:

- Overseeing and supervising loading site and disposal site debris monitoring activities
- Scheduling debris monitoring resources and deployment timing
Communicating and coordinating with City personnel
- Providing suggestions to improve the efficiency of collection and removal of debris
- Coordinating daily activities and future planning
- Remaining in contact with debris management/dispatch center or supervisor
- Identifying, addressing, and troubleshooting any questions or problems that could affect work area safety and eligibility
- Supervising the accurate measurement of load hauling compartments and accurately computing volume capacity in cubic yards (CY)
- Documenting and recording measurements and computations
- Documenting truck hauling compartment condition using digital photographs

- Preparing a master log book of all hauling equipment used by the City's debris removal contractor
- Compiling, reconciling, and documenting daily, in an electronic spreadsheet format, all eligible debris hauled by the debris removal contractor(s)

Debris Monitors

Consultant will provide trained debris monitoring personnel to oversee the loading of eligible debris at collection sites and verification of load capacity and documentation at designated temporary debris management or final disposal sites. Services include, but are not limited to:

Debris Loading Site Monitors

Consultant will perform on-site, street-level debris monitoring at all contractor loading sites to verify debris eligibility based on the monitoring contract's requirements and initiate debris removal documentation using load tickets. Services include, but are not limited to:

- Providing trained debris monitoring personnel at designated loading sites to check and verify information on debris removal operations
- Monitoring collection activity of trucks
- Issuing load tickets at loading site for each load
- Checking the area for safety considerations such as downed power lines and children playing in area, and ensuring that traffic control needs are met and trucks and equipment are operated safely
- Ensuring that Freon-containing appliances are sorted and ready for Freon removal on-site or separating transport for Freon removal before final disposal
- Performing a pre-work inspection of areas to identify potential problems such as covered utility meters, transformers, fire hydrants, mail boxes, etc. to mitigate damage from loading equipment
- Documenting damage to utility components, driveways, road surfaces, private property, vehicles, etc., should it occur, with photographs (if possible, collect information about owner, circumstances of the damage [who, what, when, where] and report to field supervisor)
- Ensuring the work area is clear of debris to the specified level before equipment is moved to a new loading area
- Properly monitoring and recording performance and productivity of debris removal crew
- Remaining in regular contact with debris management/dispatch center or supervisor
- Ensuring that loads are contained properly before leaving the loading area

- Ensuring that only eligible debris is collected for loading and hauling
- Ensuring that only debris from approved public areas is loaded for removal
- Performing other duties from time to time as directed by the debris management project manager or designated debris management personnel

Debris Tower/Site Monitors

Consultant will provide debris tower and site monitors to verify estimated quantities of eligible debris hauled by contractor trucks and documented on load tickets. Services include, but are not limited to:

- Providing trained debris monitoring personnel to accurately measure load hauling compartments and accurately compute volume capacity in CY for all contractor trucks and trailers prior to commencement of debris hauling operations

- Documenting measurements and computations

Completing record of contract haulers' cubic yardage and other recordkeeping as needed on the load ticket

- Initialing each load ticket before permitting trucks to proceed from the check-in area to the tipping area

- Remaining in regular contact with debris management/dispatch center or field supervisor

- Performing other duties as directed by the dispatch/staging operation, debris management project manager, or other designated personnel

Clerical/Data Entry Supervisor

- Consultant will provide a clerical/data entry supervisor to coordinate data entry and information management systems. Services include, but are not limited to:

- Supervising the preparation of detailed estimates and submitting them to the City debris manager

- Implementing and maintaining an electronic, disaster debris data management system linking the load ticket and debris management site information, including reconciliation and photographic documentation processes

- Providing daily, weekly, or other periodic reports in electronic format for the City debris manager noting work progress and efficiency, current/revised estimates, project completion, and other schedule forecasts/updates

Clerical Staff/Data Entry Clerk

Consultant will provide clerical staff/data entry clerk(s) as required to enter load ticket information into the contractor's information management systems and to respond to specific directions from the data entry supervisor.

EXHIBIT B
COMBINED TASK ORDER AND
NOTICE TO PROCEED

TASK ORDER NO. _____

DATE

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND DEBRIS TECH RELATING TO DISASTER DEBRIS REMOVAL, REDUCTION AND HAULING SERVICES dated _____, 2019, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Contractor agrees to perform the specific tasks set forth upon incorporated Attachment A, Scope of Services, relating to _____.

Contractor's total compensation shall be (check one):

_____ a stipulated sum of \$ _____; or
_____ a stipulated sum of \$ _____ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his or her designee,

Allowance of \$ _____ for _____, and

Allowance of \$ _____ for _____; or

_____ a fee determined on a time-involved basis with a maximum not to exceed cost of \$ _____;

as set forth upon incorporated Attachment B, Fee Breakdown, and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on _____, 20__, and shall be completed within _____ calendar days. The date of completion of all work is therefore _____, 20__. Liquidated delay damages, if any, are set at the rate of \$ _____ per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both Contractor and City, Contractor is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

DEBRIS TECH

By: _____ Date: _____

Its:

CITY OF PANAMA CITY BEACH, FLORIDA

ATTEST:

By: _____ Date: _____

City Clerk

City Manager

EXHIBIT C

FEDERAL REGULATIONS CONTRACT REQUIREMENTS 2 C.F.R §200.317-326 FOR DEBRIS REMOVAL SERVICES

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The awarded contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to the awarded contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

PROCUREMENT OF RECOVERED MATERIALS

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

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.

TERMINATION FOR CONVENIENCE

The City may terminate any awarded contract at any time for any reason by giving at least thirty (30) days notice in writing to the awarded bidder. If the contract is terminated by the City as provided herein, the awarded bidder will be entitled to receive payment for those services reasonably performed to the date of termination.

TERMINATION FOR CAUSE

If the awarded bidder fails to comply with any of the terms and conditions of the awarded contract, the City may give notice, in writing, to the awarded bidder of any or all deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If all defaults are not cured and corrected within a reasonable period as specified in the notice, the City may, with no further notice, declare the awarded contract to be terminated. The awarded bidder will thereafter be entitled to receive payment for those services reasonably performed to the date of termination, less the amount of reasonable damages suffered by the City by reason of the awarded bidder's failure to comply with the awarded contract.

Notwithstanding the above, the awarded bidder is not relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by the awarded bidder and the City may withhold any payments to the awarded bidder for the purpose of setoff until such time as the amount of damages due the City from the awarded bidder is determined.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

(1) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps must include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

EQUAL OPPORTUNITY CLAUSES

Compliance with Regulations: The contractor shall comply with the Acts and the Regulations relative to Nondiscrimination in federally-assisted programs, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

During the performance of any awarded "federally assisted contracts" the contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for

further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH DAVIS-BACON ACT

(1) Contractor. The contractor shall comply with 40 U.S.C. § 3141 – 3144 and 3146 - 3148, as supplemented by Department of Labor regulations 29 C.F.R. pt. 5 as may be applicable, which are incorporated by reference into this contract.

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

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

COMPLIANCE WITH COPELAND “ANTI-KICKBACK” ACT

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

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

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

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT 40 U.S.C. 3702 AND 3704, AS SUPPLEMENTED BY DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 5)

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including

watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City 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 Disaster Debris Disposal and Removal Services 53 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.

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

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

CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

ENERGY EFFICIENCY AND CONSERVATION ACT

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Energy Policy and Conservation Act (42 U.S.C. 6201) and the provisions of the state Energy Conservation Plan adopted pursuant thereto.

SUSPENSION AND DEBARMENT

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida Division of Emergency Management and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/ or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the Disaster Debris Disposal and Removal Services period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BYRD ANTI-LOBBYING AMENDMENT 31 U.S.C. § 1352 (AS AMENDED)

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.