



City of Diamondhead, Mississippi

Request for Proposals (RFP) # 21-100

for

Disaster Debris Monitoring and Management Services

Publication Dates:

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Responses Due: JUNE 20, 2021 @ 3:00 PM Central

City of Diamondhead, Mississippi

5000 Diamondhead Circle

Diamondhead, MS 39525

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Section 1.0 – Introduction

1.1 Overview

The City of Diamondhead (City) is a coastal community in southern Mississippi located on the northern edge of Bay St. Louis. Originally founded as an unincorporated community in Hancock County, the City was incorporated in 2012. The City is vulnerable to coastal events and desires to secure services to support recovery efforts on an as-needed basis.

The City invites qualified contractors (Contractor) to respond to this Request for Proposals (RFP) to provide Disaster Debris Monitoring and Management Services. The City desires to enter into an agreement with a qualified, responsive firm, price and other factors to be considered, that represents the best overall value to the City.

Services contemplated include:

- Debris Monitoring Services
- Payment Reconciliation and Reimbursement Support
- Claims Resolutions

The Contractor will be required to provide on-call support to the City in response to disaster events. Contractor must be knowledgeable of Federal Emergency Management Agency (FEMA) and any other governmental agency's regulations and guidelines pertinent to post-disaster recovery, debris monitoring, and Stafford Act Public Assistance claims.

1.2 Minimum Qualifications

Contractor must meet the minimum requirements outlined below to be considered a responsive vendor:

- Contractor must obtain a license or be currently licensed to do business in the State of Mississippi.
- Demonstrated knowledge and experience with FEMA requirements relating to debris removal.
- Demonstrated minimum five (5) years' experience in debris monitoring and post-disaster recovery activities.
- Contractor must be able to provide at least three (3) references for municipal projects of similar scope and services.
- Demonstrated ability to provide an Automated Debris Management System (ADMS) to capture debris removal and disposal efforts.
- Contractor must maintain minimum insurance requirements.

1.3 Schedule

While it is the City's intent to strictly adhere to the following schedule, modifications may be required. Adjustments will be communicated in an addendum if necessary. All times listed below are in Central Time (CT).

Task	Date	Time
Public Advertisement	May 20, 2020	12:00 PM
Question Deadline	June 1, 2020	9:00 AM
Proposal Submission Deadline	June 20, 2020	12:00 PM

1.4 Point of Contact

All communication concerning this RFP should be issued in writing, contain the RFP number (RFP # xx-xxx) in the subject line, and be directed solely to the point of contact at the email address below. To ensure Contractors receive all relevant communications pertaining to this RFP, Contractors are encouraged to submit a request of inclusion on the interested parties list.

[Block for POC]

Name:

Title:

Email:

1.5 Contract Term and Renewal

It is the intent of the City to secure a contract for an initial term of three (3) years with mutually agreeable options for two (2), one (1) year renewals. Maximum contract term will be five (5) years (60 months). Extensions, if agreed upon, will incorporate the same terms and conditions of the original contract plus amendments. Contracts with active task orders may be extended beyond the 60-month term to allow for the completion of designated tasks.

1.6 Right of Assignment

For the term of the contract, and any mutually agreed extensions pursuant to this RFP, the Contractor permits the City to authorize use of this procurement by other local agencies that may otherwise be adversely affected without access to the services contracted. The City reserves the right to ensure all City needs are satisfied before extending use of the contract to other agencies.

1.7 Irrevocable Offer

Contractor commits that a proposal offered in response to this solicitation guarantees a firm and irrevocable offer for a period of ninety (90) days from date of submission deadline. This period may be extended by the City as necessary to facilitate contract award. Contractors may submit a written request to withdrawal their proposals prior to the submission deadline or after the ninety (90) day irrevocable offer period expires otherwise the proposal shall remain firm until an award is announced.

1.8 Conflict of Interest

Contractor confirms that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required to be performed under the contract.

1.9 Disadvantaged and Small Business Enterprises

The City is committed to fostering the continued development and economic growth of small and disadvantaged business enterprises. To this end, the participation by small and disadvantaged business enterprises in this solicitation as both prime contractors and subcontractors is encouraged.

1.10 Provisions for Federally Assisted Projects

FEMA and other Federal agencies provide disaster-related assistance through various financial assistance programs. These programs generally require compliance with one or more applicable laws including laws that govern procurement procedures. Section 5.0 of this RFP includes the required provisions pertaining to this solicitation.

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Section 2.0 – Procurement Process and Proposal Requirements

This section includes general instructions designed to ensure all Contractors understand the procurement process for this RFP and develop proposals in a format acceptable to the City.

2.1 Question Submission

Contractors are encouraged to submit questions or requests for clarification to ensure a full understanding of the proposal requirements and the scope of services requested. Questions must be directed to the point of contact identified in Section 1.4 and in adherence with the schedule outlined in Section 1.3.

2.2 Addenda

If the City finds it necessary to supplement, clarify, or modify any portion of this RFP, a written addendum will be issued to interested parties and incorporated into the bidding docs. Contractors will be required to acknowledge receipt of any addenda on the included addenda acknowledgement form.

2.3 Reserved Rights

The City reserves the right to accept or reject all proposals, with or without cause, when doing so is perceived in the best interest of the City. The City reserves the right to waive technicalities or request additional information or clarification from Contractors. The City reserves the right to accept the proposal which, in its sole judgement, best serves the interest of the City.

This RFP does not constitute a guarantee from the City.

2.4 Contract

It is the intent of the City to award a contract to the Contractor that is deemed responsive and best serves the interest of the City. A sample contract has been included as a supplement to this RFP. Contractors must be willing to accept the terms and conditions contained within. Contractors are not permitted to modify terms or conditions of this contract and any effort to suggest or otherwise do so may be grounds for disqualification.

2.5 Evaluation Criteria

Contractors will be evaluated by a review panel and scored against weighted criterion. Contractors will be evaluated on their past project experience, assigned project personnel, their demonstrated understanding of the project scope of services to include providing an ADMS, references, and the costs associated with their proposed effort. The table below provides factors for each of the scoring criteria:

Criteria	Weight
Firm Qualifications and References	25
Past Project Experience	15
Key Personnel	10
Project Understanding and Approach	20
ADMS	15
Cost Proposal	15
TOTAL	100

2.6 Submission Requirements

Contractors are required to follow the submission requirements including proper adherence to proposal quantities, page limitations, and formatting. Deviation from these requirements may cause proposals to be deemed nonresponsive.

- **Quantity** – Contractor must submit via **email** one (1) digital proposal. Proposals must be emailed to the **City's** POC identified in section 1.4. Emails must be received with a time/date stamp prior to the deadline.
- **Page Limits** – Contractor proposals are limited to no more than seventy-five (75) pages excluding the required forms. Each sections' page limits are further defined in Section 2.8 Proposal Layout.
- **Text and Page Format** – A page is defined as one (1) 8 ½" by 11" piece of paper with text on one side. All body text must be in a font size no smaller than 10.

2.7 Preparation Costs

All costs associated with the development, production, and delivery of Contractor proposals are solely those of the Contractor. The **City** will not reimburse any Contractor for expenses incurred during this procurement process. The Contractor also agrees that the **City** bears no responsibility for any costs associated with administrative or judicial proceedings resulting from this solicitation process.

2.8 Proposal Layout

Contractors are required to follow the proposal layout defined below to enable ease review and evaluation consistency. Deviation from this format may cause proposals to be deemed nonresponsive.

- **Executive Summary/Letter** – Provide a brief introduction to the Contractor, a summary of their proposal, and the Contractor's primary point of contact and authorized signatory. (2-page limit)

- **Table of Contents** – Provide a table of contents that identifies each section of the proposal and the corresponding page numbers. (1-page limit)
- **Section 1. Firm Qualifications and References** – Provide evidence that the Contractor meets the minimum qualifications identified in Section 1.2 and include a minimum of three (3) references from clients whom the Contractor has provided similar services in the past five (5) years. Include the name of the client, contact information, contract term and value, services provided, and the amount of debris monitored. (10-page limit)
- **Section 2. Past Project Experience** – Provide a detailed summary of similar projects performed in the past five (5) years. Include the name of the client, the event/FEMA declaration, and a detailed description of the services provided. (10-page limit)
- **Section 3. Key Personnel** – Provide an organization chart and brief one (1) page resumes for all key project personnel. This should include at a minimum the Reimbursement Specialist, Project Manager, Operations Manager(s), and Data Manager. (20-page limit)
- **Section 4. Project Understanding and Approach** – Provide a comprehensive understanding of the services required and the Contractor’s means and methods for providing these services. (20-page limit)
- **Section 5. Automated Debris Management System (ADMS)** – Provide a comprehensive overview of the Contractor’s proposed ADMS that will be utilized for tracking debris collection and disposal operations. (10-page limit)
- **Section 6. Cost Proposal** – Complete fee schedule. If additional roles/rates are included Contractor must provide a description of the roles responsibilities. (2-page limit)
- **Section 7. Required Forms** – Complete and include each of the required forms:

Byrd Anti-Lobbying Amendment Certification
Drug Free Workplace Certification
Equal Employment Opportunity Certification
Non-Collusion Oath
Good Faith Affidavit

2.9 Assertion of Contractor Confidentiality

Contractors that desire to keep supplied information confidential must assert proprietary, trade secret, intellectual property, or otherwise confidential claims specific to those sections or subsections of their proposal. Contractors must provide statutory citation(s) supporting their claim of confidentiality. Simply identifying the entire proposal as confidential may be grounds for disqualification.

Section 3.0 – Scope of Services

The purpose of this RFP is to engage a Contractor to provide Disaster Debris Monitoring and Management Services on an as-needed basis resulting from all-hazards. The scope of services is not specific to Federally declared disasters and may be utilized to support the City's efforts in response to local or regional events that may not meet Federal funding thresholds.

3.1 General

Contractor shall provide disaster management, debris monitoring, and program support services in order to assist the City with disaster recovery operations, including monitoring the operations of the disaster debris removal and disposal company, and applicable reimbursement services for eligible projects. The City shall appoint a Recovery Manager to work directly with the debris removal company and the Contractor. The City and/or its debris removal and disposal company shall provide debris management site(s) (DMS) for temporary storage and processing of disaster-generated debris.

The Contractor is knowledgeable in FEMA, and other agencies regulations, guidelines and operating policies that govern the work required. The Contractor shall support the City during a disaster recovery effort and shall be responsible for all aspects of the debris monitoring process. The Contractor shall coordinate with the disaster debris removal company and the City to ensure a compliant, well-managed and organized approach to debris collection and disposal that conforms to federal guidelines.

3.2 Contractor Personnel

All Contractor personnel shall at a minimum have an accredited high school diploma or GED and have proficient communication skills to include legible handwriting. Contractor personnel are also required to have a valid driver's license if operating a vehicle and wear appropriate work attire while engaged on the project. Contractors must provide adequate job-specific training to ensure field personnel are proficient and capable of performing their assigned duties. Contractor personnel must be certified to work on the project and provided with a verifiable form of Contractor identification.

3.3 Planning

Planning meetings are intended to establish operating procedures and to review applicable policies. Planning might require the identification of DMS locations, and priority collection areas.

Contractor will be required to provide a list of key personnel and subcontractors that may be involved in the project to include names, titles, phone numbers, and email addresses.

3.4 Response Requirements

Contractor must be prepared to provide a management team in response to City needs within twenty-four (24) hours of request. City will issue a notice to proceed in concert with a task order

for required services. The City expects the Contractor to be fully mobilized to facilitate all project tasks within seventy-two (72) hours of operation commencement.

3.5 Debris Surveys and Damage Evaluations

Contractor may be required to assist the City evaluate debris generated by a disaster event. This includes debris by type, general quantities, and locations. Evaluations should be supported by GIS and other digital platforms and organized in a format applicable to FEMA Preliminary Damage Assessments (PDA).

3.6 Project Management and Administration

The Contractor shall appoint a qualified and experienced Project Manager for overall coordination and communication with the City. The Project Manager shall remain local and available to the City during the operational phases of the debris collection and disposal project. Contractor shall supply enough trained debris monitors and trained field supervisors to accommodate the volume of debris and trees to be removed from rights of way, at loading sites, debris management sites and/or final disposal sites. Contractor shall remove and replace employees immediately upon notice from the City Recovery Manager for conduct or actions not in keeping with the Agreement.

The Contractor must operate and document the work performed in a manner consistent with federal reimbursement policies, especially FEMA.

Project Management and Administration responsibilities include:

- Train and supervise field monitoring staff.
- Coordinate daily briefings or meetings to provide project status updates and to formulate or modify debris removal strategies.
- Coordinate daily scheduling of field staff and resource logistics.
- Conduct debris surveys and develop debris estimates.
- Provide training to MUNICIPALITY staff in essential debris management and collection functions.
- Manage citizen complaints/concerns related to debris removal activities to include complaint resolution.
- Prepare and issue daily progress reports.
- Prepare and issue special reports as required by the City.
- Provide permitting and environmental support to ensure DMS locations and debris removal activities comply with applicable environmental regulations.
- Develop forms, databases, etc. for tracking field activities in a format consistent with federal policies.
- Implement a Quality Control (QC) program to ensure project documentation and data is accurate and complete, and stored in a secure manner that will be accessible to the City as required.
- Ensure the debris removal company is operating in compliance with their agreement with the City.
-

3.7 Debris Collection Monitoring

To maximize potential reimbursement opportunities, the Contractor shall monitor all debris removal activities and document the work as it is performed. Debris monitors must be able to document work performed in eligible rights-of-way, and other areas designated by the City's Recovery Manager.

The Contractor shall provide one (1) debris monitor for each field collection crew and debris management site or final disposal location, and one supervisor for every eight (8) monitors unless otherwise approved by the City. Monitoring personnel are responsible for ensuring compliance with debris removal requirements and documenting the work as it is performed.

Debris Collection Monitor responsibilities include:

- Identifying eligible loose debris, stumps, hazardous trees, and limbs for removal.
- Verifying all debris removed is a direct result of the applicable disaster and removed from authorized locations.
- Ensuring that debris removal crews are working within their assigned areas and within the City's jurisdiction.
- Documenting debris loads and tree removal activities performed by the debris removal company to include GPS coordinates, photographs, crew identification, date and time.
- Make all reasonable efforts to ensure the debris removal company is working in compliance with their contract and applicable environmental regulations.
- Maintain a daily field log to document monitor assignments, tasks, and responsibilities.
- Proficiency with the Contractor provided ADMS.
- Maintain STOP WORK authority when work is not conducted in a compliant or safe manner.

3.8 Disposal Site Monitoring

Contractor should prepare disposal site reports for each temporary disposal facility to include soil sampling pre- and post-use if requested. Contractor should document the condition of each DMS prior to use by the debris removal company. Pre-use site documentation will be utilized to ensure each site is returned to pre-use conditions upon completion of operations. The debris removal company will be responsible for applicable remedies.

DMS and Final Disposal Site monitors are required at material receiving facilities to verify receipt of collected materials. Contractors should be prepared to provide disposal site monitors twenty-four (24) hours per day, seven (7) days per week if necessary. Each receiving facility is required to have at least one (1) monitor present during operating hours and two (2) monitors are preferred during congested operating windows to minimize delays.

Disposal Site Monitor responsibilities include:

- Verify the receipt of debris at respective receiving facilities.
- Observe the offloading of debris.
- Coordinate with debris removal company to ensure efficient flow of traffic at the receiving facility.

- Document materials received to include debris type, quantity, time and location of receipt, and crew responsible.
- Maintain a daily field log to document monitor assignments, tasks, and responsibilities.
- Proficiency with the Contractor provided ADMS.
- Reconcile daily debris quantities received at each disposal site to include number of load tickets, debris type, and total quantities.
- Maintain STOP WORK authority when work is not conducted in a compliant or safe manner.

3.9 Debris Vehicle and Equipment Certifications

The Contractor will be responsible for ensuring that all debris removal equipment is certified for project use prior to performing debris removal activities. Each certification includes the completion of a certification form, photographs, and a signature of the Contractor's certification representative and the debris removal company.

Certified equipment requires a license plate, valid registration, proof of insurance, and a licensed operator. Equipment must be designated fit for operation to include secured tailgates and fabricated walls, minimal non-metal structural components, tires, warning systems to include lights, and tarps or other coverings to secure debris.

Each piece of certified equipment will require a placard to be placed on the operator and passenger side of the equipment. Placards are to be provided by the debris removal company and contain the City's name, the debris removal company name, the certified capacity, and the vehicle certification number. Placards must be a minimum of 12" by 12" and contain an adhesive backing.

The Contractor shall measure the carrying capacity of each haul truck to the tenth of a cubic yard. Each certification record should be retained and reproduceable to support City needs. The equipment certification process should capture the following data points at a minimum:

- Date of Certification
- Vehicle Type, Make, and Model
- Primary Measurements (Length, Width, Height)
- Modifying Measurements (Additions and Subtractions)
- Capacity (Volume in Cubic Yards)
- Weight if applicable (Tons)
- License Plate Number
- Operator Name and License Information
- Vehicle Registration Expiration
- Insurance Provider, Policy Number, and Expiration
- Contractor Hierarchy
- Certification ID Number
- Photographs
- Certifying Representative's Credentials

The Contractor warrants the completeness and accuracy of each equipment certification by signing the completed certification form. Certification records are to be retained by the Contractor for a period consistent with the records retention policy defined in Section 3.14 Documentation and Deliverables.

3.10 Public Information Assistance

Contractor will provide regular status updates, frequency determined by the City's Recovery Manager for public information use. Contract may be required to provide infographics, fliers, or other publishable documentation to support the City's public information campaign.

Contractor shall provide appropriate staff to assist with the distribution of notices, engage with residents to obtain access rights when necessary, and to manage and resolve damage complaints arising from debris removal activities.

3.11 Payment Monitoring Processes

The Contractor shall review, validate and reconcile debris removal company invoices prior to submission to the City for processing and payment. The Contractor shall conduct a meeting at the beginning of the debris management operation to fully explain the process to project stakeholders. All invoices from the debris removal company shall be directed to the Contractor copying the City Recovery Manager. Within seven (7) calendar days of receipt, each invoice shall be reviewed by the Contractor and accepted in full or rejected with justification to the debris removal company to amend. The debris removal company will submit invoices amended per the Contractor's recommendations. Once an accepted invoice is reconciled the Contractor shall submit a payment recommendation to the City.

3.12 ADMS and Database Systems

Contractor shall provide an ADMS capable of fully digitizing the certification process and replacing the need for tradition hand-written debris tickets.

The system features shall include the following:

- Paperless electronic data collection and distribution. Field data should be collected on a tablet, phone, or other digital hardware capable of processing digital transactions and storing project data.
- ADMS should not require cellular or data connectivity to process ticket transactions. Critical transaction data should be transferrable on external media and transported between collection and disposal locations if required. Systems that require cellular or data connectivity may also be utilized but must have an operating mode that allows them to work offline in the event of service disruptions or outages.
- ADMS data should be stored indefinitely on secured servers that are backed up on regularly intervals. Data should be immediately retrievable if necessary.
- ADMS data capture should be automated to the greatest extent possible requiring minimal input from the user.

- Collection and disposal locations should be generated automatically and captured through GPS technologies integrated into the ADMS hardware.
- ADMS should provide a web-based interface accessible to project stakeholders and restricted by user credentials.
- Web interface should include a GIS interface and downloadable documents/reports at a minimum.
- Project data should be captured and organized in a manner that enables efficient payment reconciliation, conforms to FEMA documentation requirements, and supports the City's reimbursement efforts.
- The Contractor must be capable of establishing an Access Point Interface (API) between Contractor databases and City platforms if requested.
- Data entry errors and necessary data modifications must be captured in an exportable audit log.

3.13 Reimbursement Services

As requested, the Contractor shall provide applicable documentation, technical assistance, and guidance necessary to pursue and support the reimbursement of costs incurred for debris removal and monitoring services from applicable grant programs.

Reimbursement services may include the following:

- Project Formulation and Costing
- Grant Development and Management
- Reimbursement Support Services
- Appeals and Audit Support

3.14 Documentation and Deliverables

All project records including logs, invoices, contracts, paperwork, ADMS, and GIS data should be digitized and stored in a secure digital storage system for up to five (5) years or such time the City notifies the Contractor they are no longer needed.

Contractor will be required to produce deliverable intended to inform the operational progress of the project. Deliverables include daily, weekly, or as requested reports, payment recommendations, and invoices. Contractor will also be required to prepare and organize supporting documentation that may be necessary to pursue federal grant funding. This includes scopes of work, damage descriptions, cost estimates or actual cost documentation, and grant applications.

Section 4.0 – Cost Proposal

The Cost Proposal contains roles the City has identified as necessary to fully perform the scope of services required. Should the Contractor believe additional roles are necessary they are encouraged to include them in the space provided in the following table. Additional roles require the Contractor to define the tasks associated with those roles.

Rates provided are understood to be fully burdened, to encompass all costs associated with providing the required services including operating costs, overhead, and profit. The City reserves the right to amend the compensation schedule to meet project requirements that may not be evident at the time of this solicitation.

Role	Rate (\$)
Project Manager	
Operations Manager	
Field Supervisor	
Field Monitor	
DMS/Disposal Site Monitor	
Data Manager	
GIS Analyst	
Environmental Specialist	
Invoice Analyst	
Clerical/Administrative	
Reimbursement Specialist	
Additional Required Roles (must define each role)	

Section 5.0 – Required FEMA Provisions

This section includes provisions required for FEMA related projects and is included in the contract documents through incorporation in this RFP.

5.1 Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked

as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

5.2 Copeland Anti-Kickback Act

To ensure compliance with the Copeland "Anti-Kickback" Act, the Contractor agrees as follows:

- (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 FEMA may, by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these contract clauses.
- (3) **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12."

5.3 Contract Work Hours and Safety Standards Act

To ensure compliance with the Contract Work Hours and Safety Standards Act, the Contractor agrees as follows:

- (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 City of Columbia or a territory, to such City 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 \$27 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 Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

5.4 Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the State of Mississippi, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5.5 Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the State of Mississippi, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5.6 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's, 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.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

5.7 Byrd Anti-Lobbying Amendment

- (1) The Contractor certifies to the Owner that it has not and will not use 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. *The Certification is provided as a required signature form.*

- (2) Contractor will also ensure that each tier of subcontractor(s) shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures will be forwarded from tier-to-tier up to the Owner.

5.8 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, along with the list of EPA-designate items is available at EPA's Comprehensive Procurement Guidelines website.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

5.9 Access to Records

- (1) The Contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract."

5.10 DHS Seal, Logo, and Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

5.11 Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

5.12 No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

5.13 Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

5.14 Rights to Inventions Made Under a Contract or Agreement

As required by Federal program legislation, Contractor agrees to comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA.

<Remainder of page left intentionally blank>

Section 6.0 – Required Forms

This section includes forms that must be completed and submitted with the Contractor's proposal. Each form should be completed accurately and in its entirety. Contractors that require clarification may submit a written request to the POC identified in Section 1.4.

<Remainder of page intentionally left blank>

BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION

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

The undersigned, [Company] _____ certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, [Company] _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

DRUG-FREE WORKPLACE CERTIFICATION

THE BELOW SIGNED Contractor CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

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

As the person authorized to sign this statement, I certify the Contractor complies fully with the above requirements.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The **MUNICIPALITY** requires compliance with State and Federal regulations governing Equal Employment Opportunity, External Equal Opportunities (EO), External On-the-Job Training (OJT), Title VI, and the Americans with Disabilities Act (ADA) programs.

Sub-recipients of federal-aid contracts must include notifications in all solicitations for bids of work or material and agreements subject to Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities. Sub-recipients, contractors and subcontractors may not discriminate in their employment practices or in the selection and retention of any subcontractor.

By signing this document, the Respondent hereby certifies their commitment to assure nondiscrimination in its programs and activities to the effect that no person shall on the grounds of race, color, national origin, sex, age, disability or income status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any federally or non-federally funded program or activity administered by the sub-recipient and/or its contractors.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

NON-COLLUSION OATH

STATE OF _____

COUNTY OF _____

Before me, the Undersigned, a Notary Public, for and in the County and State aforesaid, personally appeared: _____ and made oath that the Contractor herein, its agents, servants, and/or employees, to the best of its knowledge and belief, have not in any way colluded with anyone for and on behalf of the Contractor, or themselves, to obtain information that would give the Contractor an unfair advantage over others, nor have they colluded with anyone for and on behalf of the Contractor, or themselves, to gain any favoritism in the award of the contract.

Affiant Signature

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____.

Signature of Notary Public

[STAMP HERE]

State of _____

Personally Known _____ OR Produced Identification _____

Type of Identification Produced: _____

GOOD FAITH AFFIDAVIT

STATE OF _____

COUNTY OF _____

I hereby propose to provide the services requested in the MUNICIPALITY's RFP and, if awarded, enter into a contract with the MUNICIPALITY. I agree that the terms and conditions of the MUNICIPALITY's RFP shall take precedence over any conflicting terms and conditions submitted with my proposal and agree to abide by all conditions of the RFP. I acknowledge that the MUNICIPALITY may not accept the proposal due to any exceptions.

I certify that all information contained in my proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the company as its agent and that the company is ready, willing, and able to perform if awarded a contract.

I further certify, under oath, that this proposal is made without prior understanding, agreement, connection, discussion or collusion with any other person, company or corporation submitting a proposal for the same product or service; no gratuities, gifts or kick-backs were offered or given by the Contractor or anyone on its behalf to gain favorable treatment concerning this procurement; no elected official, employee or agent of the MUNICIPALITY or of any other company is interested in said proposal; and that the undersigned executed this affidavit with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

Affiant Signature

Sworn to (or affirmed) and subscribed before me this _____ day of _____,
20____, by _____.

Signature of Notary Public

[STAMP HERE]

State of _____

Personally Known _____ OR Produced Identification _____

Type of Identification Produced: _____

Section 7.0 – Sample Contract

The enclosed sample contract is intended to represent the agreement between the **City** and the Contractor. Contractors are encouraged to review all terms and conditions to ensure compliance and acceptance. The District does not intend to modify this agreement unless one or more parts conflicts with preceding law.

<Remainder of page intentionally left blank>

Professional Services Agreement

This is an agreement for Professional Services Agreement (hereinafter referred to as the "Agreement") effective as of ____ day of _____, 2021 between the City of Diamondhead, MS (OWNER), having its principal office at [MUNICIPALITY ADDRESS] and [CONTRACTOR] (CONTRACTOR), a company licensed to conduct business in the State of Mississippi, having its principal place of business at [CONTRACTOR ADDRESS].

WHEREAS, the OWNER requires the services of a qualified firm to perform certain professional services ("Project") for the OWNER, has carefully reviewed the [title of the relevant RFP], and has selected [CONTRACTOR] to provide certain services as outlined in the same.

WHEREAS, the scope of work under this Agreement will have the following characteristics: On an as-needed basis, the OWNER will issue Task Orders describing the work required under this Agreement, containing a mutually-agreed upon "Not to Exceed" cost, unless otherwise provided herein, with all included work being directly related to those services originally sought by the OWNER. In response, the Contractor will prepare a scope of work and cost estimate which shall become part of the Task Order upon execution by both Parties.

NOW, THEREFORE, in consideration of the mutual promises herein, [CONTRACTOR] and the OWNER agree that the terms and conditions of this Agreement are as follows:

DEFINITIONS:

"Fee Schedule" shall mean the schedule attached as **Attachment 2** to any applicable Task Order as well as the identical schedule attached as **Schedule B**.

"Projected Budget" shall mean the initial projected amount it will cost to complete the Project, with such amount being listed under Section 4 of the Task Order.

"Scope of Services" shall mean the services and terms described within any forms which are attached as **"Attachment 1"** to any applicable Task Order, along with any modifications or additions to the services provided by CONTRACTOR to OWNER which are agreed upon by the Parties or otherwise contemplated in this Agreement.

"Site" or **"Work Site"** shall mean the location where CONTRACTOR is performing services for the Project on behalf of the OWNER.

"Task Order" shall mean the form attached as **Schedule A**, and any later-created substantially similar form, which includes basic information related to the Project and services to be performed by the CONTRACTOR as well as attachments related to the Scope of Services and Fee Schedule.

1. BASIC SERVICES

1.1. **Scope.** CONTRACTOR shall provide the Basic Services as described in individual Task Orders authorized in writing by the OWNER. A sample Task Order form is provided in **Schedule A**. The Task Order format may be modified from time to time. CONTRACTOR's obligations under this Agreement are solely for the benefit of the OWNER and no other party is intended to benefit or have rights hereunder. The Scope of Services are subject to modifications and/or additions and are thus subject to the terms of Section 6.1 herein.

PROFESSIONAL SERVICES AGREEMENT - [AGREEMENT #]

Between City of Diamondhead, MS and [CONTRACTOR]

Task Order Contract

- 1.2. **Standard of Care.** CONTRACTOR shall perform the professional services under this Agreement at the level customary for competent and prudent professionals performing such services at the time and place where the services are provided. These services will be provided by CONTRACTOR's professionals and individuals skilled in other technical disciplines, as appropriate.
- 1.3. **Subcontractors.** CONTRACTOR shall be permitted to utilize subcontractors for performing services under any Task Order.
- 1.4. **Transportation or Disposal of Hazardous Materials.** The OWNER further agrees that, if this Agreement requires the containerization, transportation, or disposal of any hazardous or toxic wastes, materials or substances, CONTRACTOR is not, and has no authority to act as a generator, arranger, transporter, or disposer of any hazardous or toxic wastes, materials or substances that may be found or identified on, at, or around OWNER's Site(s).

2. THE OWNER's RESPONSIBILITIES

Unless stated otherwise in Section 7 or in individual Task Orders, the OWNER shall do the following in a timely manner:

- 2.1. **The OWNER's Representative.** The OWNER will designate a representative having authority to give instructions, receive information, define the OWNER's policies, and make decisions with respect to individual Task Orders. Such representative is listed in Section 1 of the Task Order.
- 2.2. **Project Criteria.** Provide criteria and information as to the OWNER's requirements for a Task Order, including design objectives and constraints, space, capacity, scope of work, task assignments, and performance requirements, and any budgetary limitations to the extent known to the OWNER.
- 2.3. **Access.** Arrange for CONTRACTOR to access the Site as may be reasonably required to perform the Scope of Services. CONTRACTOR will be provided with suitable access to appropriate areas of the Site and shall be entitled to the use of such parking facilities and rest room facilities as may be authorized for its use. CONTRACTOR or its representatives may be on Site during the various stages of the work to observe the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with the intent of the Agreement. Visits and observations made by CONTRACTOR will not relieve other contractors of their obligation to conduct comprehensive inspections of the work, to furnish materials, to perform acceptable work, and to provide adequate safety precautions.
- 2.4. **Review.** Promptly respond to CONTRACTOR's request for decisions or determinations related to the scope of services.
- 2.5. **Meetings.** At CONTRACTORS request, hold or arrange to hold meetings required to assist in the work required by a Task Order.
- 2.6. **Project Developments.** Give prompt written notice to CONTRACTOR whenever the OWNER observes or otherwise becomes aware of any development that affects the Scope of Services, including but not limited to the timing, price, and/or of CONTRACTOR's services. For purposes of this Section 2.6, "prompt written notice" shall mean within two (2) business days.

3. PERIODS OF SERVICE

PROFESSIONAL SERVICES AGREEMENT - [AGREEMENT #]

Between City of Diamondhead, MS and [CONTRACTOR]

Task Order Contract

- 3.1. **Time of Performance.** Section 3 of the Task Order anticipates the orderly and continuous progress of the Task Order through completion of the Scope of Services. However, the period of service is subject to change and is thus subject to the terms of Section 6.1 herein.
- 3.2. **Start of Performance.** CONTRACTOR will start the Scope of Services described in each Task Order upon authorization by the OWNER. If the OWNER gives authorization before signing a Task Order, CONTRACTOR shall be paid as if the services had been performed after both parties signed the Task Order. Task orders will only be valid if signed by OWNER and CONTRACTOR authorized representatives.
- 3.3. **Force Majeure.** If a force, event, or circumstance beyond CONTRACTOR's or the OWNER'S control interrupts or delays CONTRACTOR's performance, the time of performance shall be equitably adjusted.
- 3.4. **Term and Termination.** This Agreement shall be in effect for three (3) years from the effective date, with two (2), one (1) year extensions available upon mutual consent of the parties. This Agreement may be terminated by either Party at will and without cause, at any time upon seven (7) days prior written notice to the other Party and shall remain in force until so terminated, however any outstanding Task Orders will not be affected by any such termination. All information and any materials provided to either Party must be returned to the other Party upon termination of the Agreement. Notwithstanding the foregoing, unless otherwise agreed by the Parties, the terms and conditions of this Agreement shall continue to apply to all outstanding Task Orders until the Scope of Services described thereunder are completed or the Task Order is terminated pursuant to the terms of the Task Order, if different than the terms of this Section 3.4, whichever is sooner.

4. COMPENSATION

- 4.1. **CONTRACTOR Services.** Based upon the Scope of Services provided for in each Task Order issued pursuant to the Agreement and any relevant agreed upon changes established after execution of said Task Order, along with the Fee Schedule, the OWNER shall pay CONTRACTOR the amount stated in invoices issued for actual work performed and reimbursable expenses incurred during the period covered by the invoice, subject to the funding limits established in each Task Order and any changes agreed upon by the parties or otherwise contemplated in this Agreement. The OWNER must raise any disputes regarding an invoice within thirty (30) calendar days of the date of such invoice ("Invoice Dispute Period"). Failure by OWNER to raise any such dispute within the Invoice Dispute Period shall result in OWNER waiving any and all claims, disputes, or other challenges associated with such invoice. In the event of a dispute as to any portion of an invoice within the Invoice Dispute Period, the undisputed portion shall be paid as provided in Section 4.1 herein. Invoices are payable by the OWNER within thirty (30) calendar days after receipt of invoice by OWNER.

5. NON-CONTROLLABLE COSTS

- 5.1. **Non-Controllable Costs.** CONTRACTOR has no control over the cost of labor, materials, equipment, services furnished by others, including, but not limited to, OWNER's contractors, and/or subcontractors. CONTRACTOR has no control over any other person or entity's methods of determining prices. Further, CONTRACTOR has no control over competitive bidding or market conditions. CONTRACTOR's opinion of probable cost is made on the basis of CONTRACTOR's experience and qualifications and represents CONTRACTOR's judgment as an experienced and qualified professional firm, familiar with the disaster recovery industry. CONTRACTOR does not guarantee that

proposals, bids or actual project cost will not vary from CONTRACTOR's opinions of probable cost.

6. GENERAL CONSIDERATIONS

- 6.1. **Changes.** By written and/or electronic notice at any time, the OWNER or CONTRACTOR may change services required by a Task Order, provided such changes are within the general scope of the services contemplated by this Agreement, and subject to validation under any applicable cost or price analysis required by federal, state, or local law. In such event, an equitable adjustment both in the compensation for and time of performance of the adjusted Task Order shall be made in writing prior to CONTRACTOR performing the changed services, unless otherwise provided herein. During the course of the Project, the Scope of Services may be subject to changes in length and/or price dependent upon the nature of the Project and required materials, labor, and/or resources. Any changes requested by OWNER or CONTRACTOR must be requested and approved by the OWNER's or CONTRACTOR's authorized representative as the case may be.
- 6.2. **Access to Records.** The following access to records requirements apply to CONTRACTOR, which includes its successors, transferees, assignees, and subcontractors: (a) CONTRACTOR agrees to provide the OWNER, the State of Mississippi, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions; (b) CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed; and (c) CONTRACTOR agrees to provide the FEMA Administrator or their authorized representatives access to construction or other work sites pertaining to the work being completed under this Agreement, as permitted by the OWNER.
- 6.3. **Confidentiality and Proprietary Information.** In the course of providing services under this Agreement, OWNER and CONTRACTOR may receive confidential and/or proprietary information and/or materials of the other Party. Each Party agrees to hold secret and confidential all information designated by the other Party as confidential ("Confidential Information"). Neither Party will reveal Confidential Information to a third party unless: (a) the non-disclosing Party consents in writing; (b) the information is or becomes part of the public domain; (c) applicable law, regulation, court order or an agency of competent jurisdiction requires its disclosure; or (d) failure to disclose the information would pose an imminent and substantial threat to human health or the environment. All drawings, specifications, and technical information furnished to OWNER by CONTRACTOR or developed for OWNER by CONTRACTOR in connection with the Scope of Services are, and will remain, the property the OWNER.
- 6.4. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of **Mississippi** and the venue for all disputes shall be any competent court of Hancock County, Mississippi.
- 6.5. **Remedies.** Nothing in this Agreement otherwise prevents the OWNER from utilizing any available remedies, administrative, contractual, or legal, where CONTRACTOR has been found to have violated or breached the terms of this Agreement, subject to the Limitation of Liability provision below.

PROFESSIONAL SERVICES AGREEMENT - [AGREEMENT #]

Between City of Diamondhead, MS and [CONTRACTOR]

Task Order Contract

- 6.6. **Insurance.** CONTRACTOR will maintain **insurance** against the following risks during the term of the Agreement: (a) workers compensation in statutory amounts and employer's liability for CONTRACTOR's employees' project-related injuries or disease; (b) general liability and automobile liability each in the amount of \$1,000,000 for personal injury or property damage to third parties which arises from CONTRACTOR's performance under this Agreement; and (c) professional liability in the amount of \$1,000,000 for legal obligations arising out of CONTRACTOR's failure to meet the Standard of Care.
- 6.7. **Mutual Indemnification.**
- 6.7.1. CONTRACTOR hereby agrees to indemnify and hold the OWNER harmless from and against any and all losses, damages, settlements, costs, charges, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character arising from the gross negligence or willful misconduct of CONTRACTOR in the performance of its obligations under this Agreement.
- 6.7.2. The OWNER hereby agrees to indemnify and hold CONTRACTOR harmless from and against any and all losses, damages, settlements, costs, charges, or other expenses or liabilities of every kind and character arising out of or relating to any and all third party claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character which specifically and directly arise from the gross negligence or willful misconduct of OWNER as related to the services which OWNER has engaged CONTRACTOR for under this Agreement or for any injuries suffered by an employee or contractor of OWNER who is performing work for OWNER.
- 6.8. **Limitation of Liability.** Notwithstanding any other provision of this Agreement and to the fullest extent permitted by law the parties agree that neither the OWNER nor CONTRACTOR shall be liable to each other for any special, indirect or consequential damages, whether caused or alleged to be caused by negligence, strict liability, breach of contract or warranty under this Agreement. Except for amounts for which indemnification is given by CONTRACTOR hereunder, in no event will CONTRACTOR's liability to the OWNER, whether in contract, tort or any other theory of liability, exceed CONTRACTOR's fees for services from which the liability arises.
- 6.9. **Assignment Rights.** OWNER may offer adoption of this agreement in whole to other local governing agencies with the express written approval of the CONTRACTOR. The OWNER makes no guarantee of assignment and the CONTRACTOR maintains the right to refuse services to other local governing agencies.
- 6.10. **Interpretation.** This Agreement shall be interpreted in accordance with the laws of the State of **Mississippi**.
- 6.11. **Successors.** This Agreement is binding on the successors and assignees of the OWNER and CONTRACTOR. The Agreement may not be assigned in whole or in part to any third parties without the written consent of the OWNER.

PROFESSIONAL SERVICES AGREEMENT - [AGREEMENT #]

Between City of Diamondhead, MS and [CONTRACTOR]

Task Order Contract

6.12. **Independent Contractor.** CONTRACTOR represents that it is an independent contractor and is not an employee of the OWNER.

6.13. **Notices.** Written notices may be delivered in person or by certified mail, or by facsimile, or by courier or by email. All notices shall be effective upon the date of receipt by the party.

6.14. **Entire Agreement.** This Agreement encompasses all procurement and contract documents to include the RFP and addenda, CONTRACTOR Proposal, Contract, Schedules, Attachments, and Task Orders executed pursuant to this Agreement. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect. Any changes to this Agreement shall be in writing and signed by the OWNER and CONTRACTOR, unless otherwise provided in this Agreement.

6.15. **Waivers and Severability.** A waiver or breach of any term, condition, or covenant by a party shall not constitute a waiver or breach of any other term, condition, or covenant. If any court of competent jurisdiction declares a provision of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

6.16. **Effective Date.** This Agreement is effective on the date shown on the cover page.

7. SCHEDULES.

7.1 **Schedules.** The following **Schedules** are attached to and made a part of this Agreement:

7.3.1 **Schedule A:** *Sample Task Order*

7.3.2 **Schedule B:** *Fee Schedule*

7.3.3 **Schedule C:** *Request for Proposals*

7.3.4 **Schedule D:** *Contractor Proposal*

7.2 **Required Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.**

In addition to the terms and conditions expressed within this Agreement, the Code of Federal Regulation ("CFR") Part 200.326 requires that contracts made by non-Federal entities under a Federal award must contain certain provisions and/or clauses, as applicable, to the contract. These clauses are identified in 2 CFR Part 200 Appendix II, and by their inclusion in the RFP are incorporated into this Agreement, as applicable, and any Task Orders issued by the OWNER.

8. **Execution Authority.** This Agreement is a valid and authorized undertaking of the OWNER and CONTRACTOR. The representatives of the OWNER and CONTRACTOR who have signed below have been authorized to do so.

PROFESSIONAL SERVICES AGREEMENT - [AGREEMENT #]

Between City of Diamondhead, MS and [CONTRACTOR]

Task Order Contract

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as of the day and year shown on the cover page.

CITY OF DIAMONDHEAD, MS

[CONTRACTOR]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Schedule A

TASK ORDER

Task Order Number: _____

Task Order Date: _____

Subject to the Agreement between the OWNER and CONTRACTOR, effective [DATE], the OWNER hereby authorizes CONTRACTOR to perform services as specified in this Task Order and in accordance with the above-referenced Agreement.

1. Basic Project Information:

Project Name: _____

Project Location: _____

OWNER Representative: _____

CONTRACTOR Representative: _____

2. Scope of Services: CONTRACTOR shall perform services described in Attachment 1, Scope of Services, attached and incorporated into this Task Order.

3. Period of Service: The period of service shall be from [DATE] to [DATE] (__ days) from Task Order effective date.

4. Compensation: CONTRACTOR's compensation under this Task Order, which shall not be exceeded without prior written authorization of the OWNER, is \$_____.

PROFESSIONAL SERVICES AGREEMENT - [AGREEMENT #]

Between City of Diamondhead, MS and [CONTRACTOR]

Task Order Contract

5. This Task Order's Fee Schedule is incorporated and provided as Attachment 2.

6. **Amendment:** This Task Order amends Task Order No. _____, Dated: _____.

ISSUED AND AUTHORIZED BY:

CITY OF DIAMONDHEAD, MS

ACCEPTED AND AGREED TO BY:

[CONTRACTOR]

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

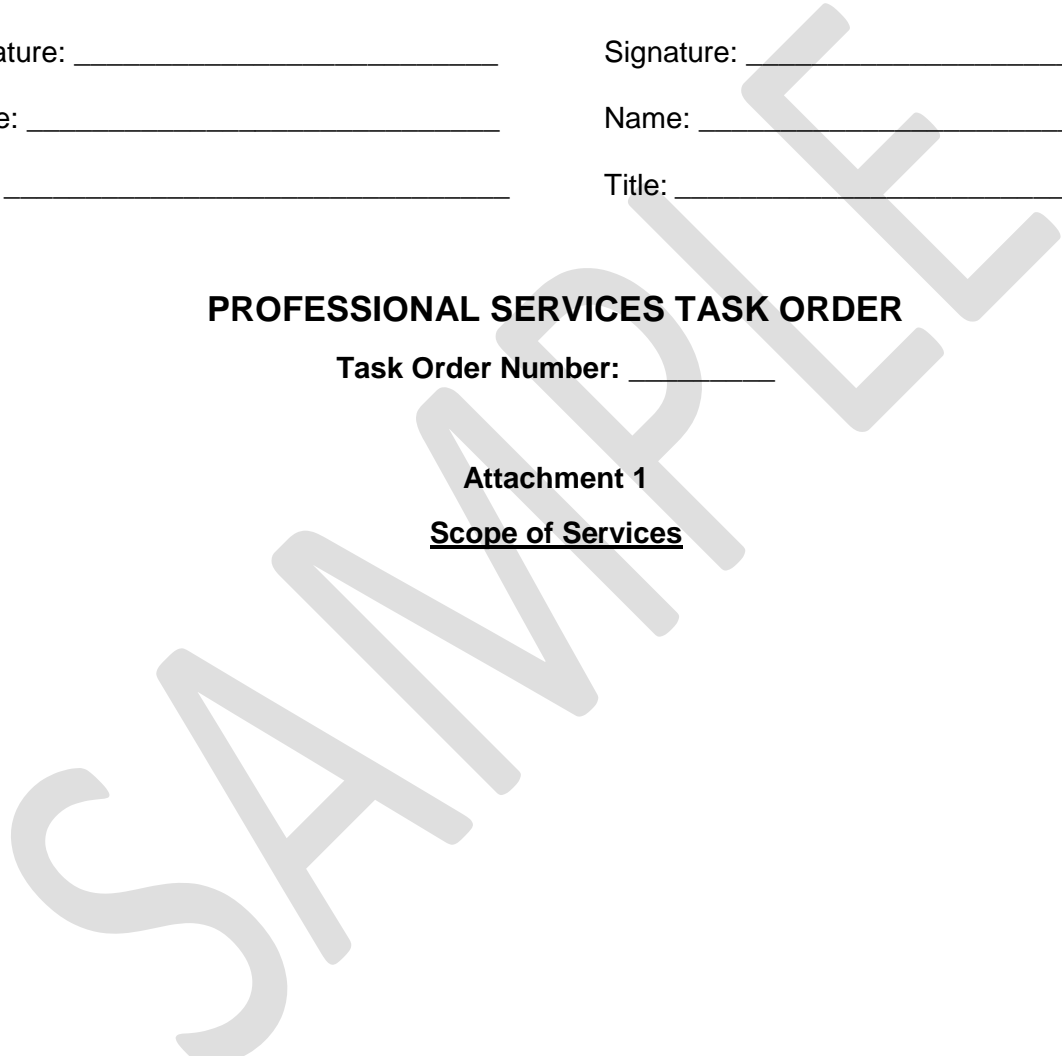
Title: _____

PROFESSIONAL SERVICES TASK ORDER

Task Order Number: _____

Attachment 1

Scope of Services



Schedule B

Fee Schedule

Role	Rate (\$)
Project Manager	
Operations Manager	
Field Supervisor	
Field Monitor	
DMS/Disposal Site Monitor	
Data Manager	
GIS Analyst	
Environmental Specialist	
Invoice Analyst	
Clerical/Administrative	
Reimbursement Specialist	
Additional Required Roles (must define each role)	

Schedule C

Request for Proposals (RFP #xx-xxx)

SAMPLE

Schedule D

Contractor Proposal

SAMPLE

