

Pre-Position Agreement for Disaster Debris Management

This AGREEMENT is between City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as CITY) and TFR ENTERPRISES, INC. (hereinafter referred to as CONTRACTOR).

WITNESSETH:

For the purpose and subject to the terms and conditions hereinafter set forth, the CITY hereby contracts for certain services, and CONTRACTOR is prepared to provide such services as are agreed to in this document.

The parties agree as follows:

ARTICLE 1 – EFFECTIVE DATE.

The effective date of this AGREEMENT shall be _____, 202_. The Agreement shall remain in effect for a three (3) year period, with the option to extend the AGREEMENT for two additional one-year periods upon mutual agreement of the parties, unless otherwise terminated as provided herein. Activation of this agreement shall be based on a Notice to Proceed (NTP) issued by the Mayor of the City of Norman.

ARTICLE 2 – NATURE OF AGREEMENT.

It is agreed and understood between the parties hereto that this is a pre-positioned or “standby” AGREEMENT. As such, there is no value associated with this AGREEMENT and actual quantities will vary based on the applicable disaster type and scope.

ARTICLE 3 - SERVICES TO BE PERFORMED.

CONTRACTOR shall perform the services as stated in the Request for Bid of Contractual Services for Disaster Debris Clearance and Removal Services (the “Request for Bid”) and the CONTRACTOR’S Response attached hereto and incorporated by reference as part of this AGREEMENT, and as may be specifically authorized by the CITY. Such authorizations will be referred to as Task Orders. Each Task Order will set forth a specific scope of services, rate/amount of compensation, estimated completion date, and other pertinent details of the task being authorized.

ARTICLE 4 – COMPENSATION

CITY shall pay CONTRACTOR in accordance with the Hourly Equipment and Labor Price Schedule and Unit Rate Price Schedule included with CONTRACTOR’S Response, which is attached hereto and incorporated by reference as part of this AGREEMENT.

CONTRACTOR may submit weekly or semi-monthly invoices for services rendered in accordance with the attached Request for Bid. Invoices must reference the Task Order number. CONTRACTOR shall submit invoices on a regular basis and in no instance, for more than a thirty (30) day period. CONTRACTOR shall be paid within twenty (20) days of submitting a complete invoice. If there are any items in dispute, CONTRACTOR will be paid for those items not in dispute, and disputed items will be resolved within 45 days, and paid within 10 days of resolution. Disputed items must be submitted to CONTRACTOR within ten (10) days of the receipt of the invoices.

Payment of CONTRACTOR by CITY is not contingent upon the CITY being reimbursed by any Federal or State agency. Payment to CONTRACTOR will be made for any work directed by the CITY.

In order for both parties to this AGREEMENT to close their books and records, CONTRACTOR will clearly state "Final Invoice" on CONTRACTOR'S final/last billing to the CITY.

ARTICLE 5- INSURANCE

CONTRACTOR shall maintain insurance limits in accordance with the Request for Bid, which is hereby incorporated in its entirety by reference herein. CONTRACTOR shall provide CITY six (6) original Certificates of Insurance evidencing such coverage prior to execution of this Agreement and again within twenty-four hours of receiving a Notice to Proceed under this Agreement.

ARTICLE 6 – SURVIVAL

Upon completion of all services, obligations and duties provided for in this AGREEMENT, or in the event of termination of this AGREEMENT for any reason, the terms and conditions of this AGREEMENT shall survive.

ARTICLE 7 – INDEMNIFICATION

CONTRACTOR shall defend, indemnify, and hold harmless the CITY, its officers, agents and employees from and against all actions, claims, liability, loss, cost, damage or expense, of whatever kind and nature, including but not limited to those arising under Federal Employer's Liability Act, or under any Workers' Compensation Act, and any amendment to said Acts now or hereafter in effect, including attorney fees and other expenses of litigation, and including any suit instituted to enforce the obligations of this provision, which City may sustain or incur, or for which it may become liable, by reason of, arising out of or resulting from the performance of the work, caused by any act or omission of CONTRACTOR, its officers, agents, employees and subcontractors, and anyone for whose acts any of them may be liable.

ARTICLE 8 – RELATIONSHIP OF PARTIES.

The CONTRACTOR shall operate as an independent contractor, and the CITY shall not be responsible for any of the CONTRACTOR'S acts or omissions. The CONTRACTOR shall not

be treated as an employee with respect to the services performed hereunder for Federal or State tax, unemployment, or workers' compensation purposes. The CONTRACTOR understands that neither federal, nor state, no payroll tax of any kind shall be withheld or paid by the CITY on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR further agrees that the CONTRACTOR is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participating in, any employee pension, health, or other fringe benefit plan of the CITY. The CITY shall not be liable to the CONTRACTOR for any expenses paid or incurred by the CONTRACTOR unless otherwise agreed in writing. The CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and supplies required to provide the contracted services unless otherwise agreed in writing. The CONTRACTOR shall comply with all federal, state, and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The CONTRACTOR shall insure that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

ARTICLE 9 – CITY'S RESPONSIBILITIES

CITY shall be responsible for providing access to all project sites, and providing information required by CONTRACTOR that is available in the files of the CITY to assist CONTRACTOR in completing any assigned tasks. CITY is responsible for assisting in obtaining any permits necessary for CONTRACTOR to complete any Task Order assigned.

ARTICLE 10 – TERMINATION OF AGREEMENT

This AGREEMENT may be terminated in accordance with the terms set forth in the Request for Bid and fully incorporated by reference herein.

ARTICLE 11 – NON-DISCRIMINATION

CONTRACTOR shall recruit, hire and treat all of its employees equally without regard to race, color, religion, sex, sexual preference/orientation, gender identity or expression, age, marital status or familial status, including marriage to a person of the same sex, citizen status, national origin or ancestry, place of birth, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status.

ARTICLE 12 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of the AGREEMENT, or the occurrence of any event rendering any portion or provision of this AGREEMENT void, shall in no way affect the validity or enforceability of any other portion or provision of the AGREEMENT. Any void provision shall be deemed severed from the AGREEMENT and the balance of the AGREEMENT shall be construed and enforced as if the AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to reform the AGREEMENT to replace any stricken provision with a valid provision that comes as close as

The parties agree that this Agreement shall be governed by the laws of the State of Oklahoma and that any action brought to enforce the terms of this agreement shall be brought in the District Court for Cleveland County, Oklahoma.

ARTICLE 18 – BOND

Upon issuance of a Notice to Proceed or Task Order, CONTRACTOR will provide such bonds as described in the Request for Bid attached hereto.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this AGREEMENT.

DATED this ____ day of _____, 202_.

CITY OF NORMAN, OKLAHOMA

By: _____

Mayor Larry Heikkila

ATTEST:

By: _____

Brenda Hall, City Clerk

Approved as to form and legality this ____ day of _____, 202_.

By: _____

City Attorney's Office

CONTRACTOR

By:  _____

Name: Tipton F Rowland

Title: Owner/CEO

ATTEST:

By:  _____

Title: Secretary