



## **ADDENDUM #2**

### **MONITORING SERVICES FOR DISASTER DEBRIS REMOVAL**

Requisition No. GG-081221  
ISSUED AUGUST 3, 2021

Addendum #2 is being issued to address the following items in the Monitoring Services For Disaster Debris Removal RFP. This RFP continues to be due at 2:00 p.m. CT on Thursday, August 12, 2021. Original and revised text is noted below. Changes to revised text are highlighted in yellow.

#### **1) Deficiencies, Corrective Actions and Deductions – Page 15 & 16**

##### **Original Paragraph Sections:**

The City's authorized agent will notify the Contractor, in writing, of any observed noncompliance with the aforementioned Federal, State, or local laws or regulations. Such notice, when delivered to the Contractor at the site of the work, shall be deemed sufficient for the purpose. After receipt of such notice, the Contractor shall immediately inform the City's authorized agent of proposed corrective action, and take such action as may be approved. If the Contractor fails or refuses to comply promptly, the City's authorized agent may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time, or for excess costs or damages by the Contractor.

The City may discuss corrective actions with the Contractor to prevent future occurrences. The Contract may be terminated. City reserves the right to any and all remedies should a deficiency or breach be determined. Where the ~~Agreement's total value exceeds \$150,000 and the~~ Contractor is found in breach of any of the terms or conditions of that Agreement, Contractor shall ~~provide liquidated damages in an amount consistent with the Agreement to~~ make the City whole ~~after the project is completed by new contractor or City forces.~~ The Contractor agrees and understands that the City cannot be whole until the project is completed for the awarded bid amount and any additional costs would be part of the liquidated damages. This section is intended to comply with 2 C.F.R. Chapter 2.

The Contractor is responsible for overseeing the debris removal process and ensuring that all debris removed meets FEMA guidelines and is reimbursable. The Contractor is also responsible for the review and validation of all invoices submitted by the debris removal contractor prior to evaluation by the City. ~~If the City finds there is any questionable documentation on tickets for ROW debris, leaners, hangers, or stumps, the ticket shall be removed and no invoice shall be billed to the City for those services. If the ticket passes the City's documentation review and is rejected by FEMA or the CRC and the subsequent appeal is denied for reimbursement, the City shall take measures to recoup the outstanding expenses related to ROW debris, leaners, hangers, or stumps as it deems necessary between the contractor and the monitoring company depending upon the situation.~~

##### **Revised Paragraph Sections:**

The City's authorized agent will notify the Contractor, in writing, of any observed noncompliance with the aforementioned Federal, State, or local laws or regulations. Such notice, when delivered to the Contractor at the site of the work, shall be deemed sufficient for the purpose. After receipt of such notice, the Contractor

shall immediately inform the City's authorized agent of proposed corrective action, and take such action as may be approved. If the Contractor fails or refuses to comply promptly, the City's authorized agent may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time, or for excess costs or damages by the Contractor. Contractor shall not charge the City for any time or expenses in performing deficient or defective work.

The City may discuss corrective actions with the Contractor to prevent future occurrences. The Contract may be terminated. City reserves the right to any and all remedies should a deficiency or breach be determined. Where the Contractor is found in breach of any of the terms or conditions of that Agreement, Contractor shall make the City whole. The Contractor agrees and understands that the City cannot be made whole until the project is completed for the awarded bid amount and any additional costs would be part of the liquidated damages. This section is intended to comply with 2 C.F.R. Chapter 2.

The Contractor is responsible for overseeing the debris removal process and ensuring that all debris removed meets FEMA guidelines and is reimbursable. The Contractor is also responsible for the review and validation of all invoices submitted by the debris removal contractors prior to evaluation by the City. If the Contractor breaches this Agreement or negligently or wantonly performs its job, and the City pays for debris removal work that the Contractor wrongfully approved or directed, and that work or expense is later rejected for reimbursement by FEMA or the CRC, in whole or in part, then the Contractor shall be liable to the City for the City's unreimbursed costs, not to exceed the full amount of money paid by the City to the Contractor under this Agreement.

## 2) FEMA Guidelines and Regulations – Page 23

### Original:

2. If the City finds there is any questionable documentation on tickets for ROW debris, leaners, hangers, or stumps, the ticket shall be removed and no invoice shall be billed to the City for those services. The monitoring time associated with the ticket shall be removed as well.
3. If the ticket passes the City's documentation review and is rejected by FEMA or the CRC and the subsequent appeal is denied for reimbursement, the City shall recoup the outstanding expenses as related to ROW debris, leaners, hangers, or stumps between the contractor and the monitoring company equally.

### Revised:

2. If the Contractor breaches this Agreement or negligently or wantonly performs its job, and the City pays for debris removal work that the Contractor wrongfully approved or directed, and that work or expense is later rejected for reimbursement by FEMA or the CRC, in whole or in part, then the Contractor shall be liable to the City for the City's unreimbursed costs, not to exceed the full amount of money paid by the City to the Contractor under this Agreement.



**3) Monitoring Services for Disaster Debris Removal Contract – Page 24 & 25**

**The following changes were made to the contract. A revised contract is attached to this Addendum. This section will be completed by the awarded monitoring firm upon receipt of Notice of Award.**

**Original:**

The work shall be commenced upon receiving a Notice to Proceed to be issued to the Contractor by the Owner, or its authorized representative, ~~and shall be completed within timeframe specified / ( \_\_\_ working days) after the commencement date stipulated in said work order/Notice to Proceed. In the event the Contractor should fail to complete the work within the time specified herein, the Contractor shall pay the Owner, as liquidated damages, the amount specified in Section 108 of the State of Alabama Standard Specifications for Highway construction, for each working day beyond the required date of completion.~~

**Revised:**

The work shall be commenced upon receiving a Notice to Proceed to be issued to the Contractor by the Owner, or its authorized representative.

**4) Attachment A – Task Order Directive – Page 28-30**

**The following changes were made to the Task Order Directive. A revised Task Order Directive is attached to this Addendum. This section would be completed by the awarded monitoring firm upon receipt of Notice to Proceed.**

**Original:**

Force Majeure: Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, ~~strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.~~

**Revised:**

Force Majeure: Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God.

**Please include all Addendum #2 documents with your RFP response, utilize the revised FEMA Guidelines and Regulations sheet for your signature and acknowledge receipt of Addendum #2 on page 19 of the original RFP packet.**

Rachel Keith  
Project Manger



## ADDENDUM #2

**REVISED PAGE 23**

### FEMA GUIDELINES AND REGULATIONS

The undersigned vendor in accordance with the requirements set forth within this Disaster Debris Removal & Disposal Request for Proposal, Requisition Number GG-081221, hereby certifies that

\_\_\_\_\_ does:  
(Name of Business)

1. Agree to follow all guidance published for debris removal operations, specifically, but not limited to the latest version of the Public Assistance Program and Policy Guide.
2. If the Contractor breaches this Agreement or negligently or wantonly performs its job, and the City pays for debris removal work that the Contractor wrongfully approved or directed, and that work or expense is later rejected for reimbursement by FEMA or the CRC, in whole or in part, then the Contractor shall be liable to the City for the City's unreimbursed costs, not to exceed the full amount of money paid by the City to the Contractor under this Agreement.
3. No debris shall be picked up in any private or gated subdivisions without prior written approval from the City.

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

\_\_\_\_\_  
PROPOSER'S SIGNATURE

\_\_\_\_\_  
DATE



## **ADDENDUM #2**

**REVISED PAGE 24 & 25**

### **MONITORING SERVICES FOR DISASTER DEBRIS REMOVAL CONTRACT**

*(To be completed upon bid award)*

THIS CONTRACT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the Foley City Council, on behalf of City of Foley, Alabama, hereinafter called the Owner, Party of the First Party, and \_\_\_\_\_, organized and existing under the laws of the State of Alabama, hereinafter called the Contractor, Party of the Second Part.

Contract shall be for the period of **one year from date specified in executed contract** and continuation of contract can only be extended upon request by the City of Foley (for a maximum of 2 additional years) as specified in the bid specification requirements) and mutual agreement of both parties.

*WITNESSETH: That the parties hereto do mutually agree as follows:*

The Contractor shall furnish the materials and perform the work for the:

#### **MONITORING SERVICES FOR DISASTER DEBRIS REMOVAL**

and other work, complete in place with all appurtenances, for the consideration of the unit prices set forth in the Contractor's Bid Proposal for the various items of work and in strict and entire conformity with the provisions of the Contract, and the advertisement and proposal, and the plans and specifications (including special provisions, if any) prepared (or approved) and submitted by the Owner (such as changes to meet FEMA Eligibility requirements), copies of which are hereto attached, and which said plans and specifications and the advertisement and the proposal are hereby made a part of this agreement as fully and to the same effect as if the same has been set forth at length in the body of this Agreement.

FEDERAL PROCUREMENT STANDARDS: Contractors are required to comply with all Federal procurement standards as applicable to Monitoring Services for Disaster Debris Removal performed for the City of Foley and any other terms applicable in the bid contract. Any changes or updates in these standards will be applicable to these services and contract. Should the relevant Federal Agencies require changes remedies, changed conditions, access or records retention, or suspension of work then said conditions will be immediately incorporated into this contract.

The work shall be commenced upon receiving a Notice to Proceed to be issued to the Contractor by the Owner, or its authorized representative.

INDEMNITY PROVISIONS: The Contractor shall indemnify and hold harmless the Owner, State of Alabama, Federal Government, including FEMA, and its employees from and against any and all losses, liabilities, expenses, payments, recoveries and judgments, expenses including attorneys' fees, and all claims for damage relating to or arising out of any negligent action or failure to act by Contractor, its subcontractors, officers, agents, and employees of any of the obligations under this Agreement.

DAVIS-BACON ACT: The City of Foley acknowledges the Davis-Bacon Act (relating to prevailing wage rates) does not apply to this contract as referenced in the FEMA guidance PROCUREMNT GUIDANCE FOR RECIPIENTS AND SUBRECIPIENTS, dated June 21, 2016, UNDER 2 C.F.R PART 200 (UNIFORM RULES) SUPPLEMENT TO THE PUBLIC ASSISTANCE PROCUREMNT DISASTER ASSISTANCE TEAM (PDAT) FIELD MANUAL which states that Davis-Bacon is not *applicable when work is performed under FEMA's Public Assistance Grant Program*.



OPEN TRADE: Section 41-16-5, Code of Alabama (1975): By signing this submittal/contract, the awarded bidder represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

**IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.**

**THE CITY OF FOLEY:**

**CONTRACTOR:**

\_\_\_\_\_  
Ralph Hellmich, Mayor

\_\_\_\_\_  
Company Name

**ATTEST:**

**BY:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

\_\_\_\_\_  
Kathryn Taylor, City Clerk

**Address:** \_\_\_\_\_

\_\_\_\_\_

I, \_\_\_\_\_ certify that I am a Notary Public for the corporation named as Contractor herein: that \_\_\_\_\_, who signed this Contract on behalf of the Contractor, was then \_\_\_\_\_ of said corporation: that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporation by authority of its corporate powers.

\_\_\_\_\_  
NOTARY PUBLIC, ALABAMA

MY COMMISSION EXPIRES: \_\_\_\_\_

(STATE OF ALABAMA)  
(COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for the City of Foley, Alabama, hereby certify that **RALPH HELLMICH** whose name as **MAYOR of THE CITY OF FOLEY**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of the within instrument, he, as such officer and with full authority executed the same voluntarily and as the act of said entity.

Given under my hand and Official Seal, this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, ALABAMA

MY COMMISSION EXPIRES: \_\_\_\_\_



**ADDENDUM #2**  
**REVISED PAGE 26-30**

**ATTACHMENT A – TASK ORDER DIRECTIVE**  
*(To be completed upon Notice to Proceed)*

STATE OF ALABAMA  
COUNTY OF BALDWIN

**TASK ORDER DIRECTIVE NUMBER \_\_\_\_\_**

**UNDER MASTER AGREEMENT TO PROVIDE PROFESSIONAL CONSULTING SERVICES AND  
OTHER SERVICES RELATED TO DEBRIS REMOVAL  
BETWEEN THE CITY OF FOLEY, ALABAMA AND**

\_\_\_\_\_

**ARTICLE A. PURPOSE**

The purpose of this Task Order Directive (TOD) is to authorize and direct \_\_\_\_\_ (“Consultant”) to proceed with providing certain services as more particularly described in Exhibit "A" which is attached hereto and incorporated herein and made a part of the Master Agreement between the City and the Consultant dated \_\_\_\_\_, 20\_\_\_\_.

**ARTICLE B. SCOPE OF SERVICES**

The specific services to be performed by Consultant pursuant to this TOD are more particularly described and defined in Exhibit "A", which is attached hereto and incorporated herein.

**ARTICLE C. COMPENSATION / EXPENSES**

As compensation for providing the services described by in this TOD, the City shall pay the Consultant in accordance with the provisions of the Master Agreement a sum that shall not exceed a maximum cost of \$ \_\_\_\_\_. Consultant shall invoice City in accordance with the Master Agreement identifying all hours for which services were performed.

**ARTICLE D. CITY REPRESENTATIVE**

Consultant shall keep the City's TOD representative informed of all efforts and progress in regard to services pursuant to this TOD so that work effort can be monitored and coordinated. The City's representative for the services of Consultant pursuant to this TOD is hereby designated as:

Name: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**ARTICLE E. PERIOD OF SERVICE**

Work by the Consultant on all aspects of this TOD shall commence upon the execution by both parties of this TOD. Time for completion shall be \_\_\_\_\_ days.



## **ARTICLE F. MERGER**

This TOD together with any other authorized TODs and the Master Agreement constitutes the entire agreement between the parties in relationship to the services stated herein. All written or oral understandings and agreements between the parties are merged into this agreement. To the extent that any provision of this TOD conflict with the Master Agreement, the terms and conditions of the Master Agreement shall prevail. To the extent there is a direct conflict between any term or condition hereof and Exhibit "A" attached hereto, the provisions of this TOD shall prevail. No representation, warranty or covenant made by any party which is not contained or referred to in the Master Agreement or this TOD has been relied on by any party in entering into this agreement.

## **ARTICLE G. AUTHORIZATION**

This TOD is effective and the Consultant is authorized to commence providing services pursuant to the provisions hereof upon the execution by both parties to this TOD.

## **ARTICLE H. MISCELLANEOUS**

Capacity: Each Party to this Agreement represents and warrants to the other as follows:

- 1) That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.
- 2) That each has full power and capacity to enter into this Agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.
- 3) That to the extent required, each Party has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this Agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the Party.
- 4) That each Party has duly authorized and empowered a representative to execute this Agreement on their respective behalf and the execution of this Agreement by such representative fully and completely binds the Party to the terms and conditions hereof.
- 5) That absent fraud, the execution of this Agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other Party shall be entitled to rely upon the same. To the extent a Party is a partnership, limited liability company or joint venture, the execution of this Agreement by any member thereof shall bind the Party and to the extent that the execution of Agreement is limited to a manager, managing partner or specific member then the person so executing this Agreement is duly authorized to act in such capacity for the Party.
- 6) That each party represents and warrants to the other that there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this Agreement.





- 7) That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this Agreement.
- 8) Third Party Beneficiaries: It is the intent of the parties hereto that there shall be no third party beneficiaries to this Agreement.

Final Integration: This Agreement, together with any amendments, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. In the event of a direct conflict between the provisions hereof and any prior agreement or amendment, the latter shall supersede the former. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

Force Majeure: Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God.

Amendment in Writing: This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

Binding Effect: This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns. If any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Captions: The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.

Construction: This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

Mandatory and Permissive: "Shall", "will", and "agrees" are mandatory; "may" is permissive.

Governing Laws: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.

Prohibition on Assignment and Delegation: No party to this Agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

Waiver: Non enforcement of any provision of this Agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the Agreement.

Agreement Date/Counterparts: The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and



delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

Use of Words and Phrases: The following words and phrases, where used in this document, shall be given the following and respective interpretations: "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this document as an entirety and not solely to the particular portion hereof in which any such word is used.

The definitions set forth in any portion of this Agreement unless the text or context indicates differently shall be deemed applicable whether the words defined are herein used in the singular or the plural. Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

IN WITNESS WHEREOF the parties hereto each herewith subscribe the same on this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

**CITY OF FOLEY,**  
A MUNICIPAL CORPORATION

**(CONSULTANT’S COMPANY NAME)**

\_\_\_\_\_  
BY: Ralph G. Hellmich  
ITS: Mayor  
DATE: \_\_\_\_\_

\_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
DATE: \_\_\_\_\_

STATE OF ALABAMA  
BALDWIN COUNTY

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **RALPH G. HELLMICH** whose name as **MAYOR** of the **CITY OF FOLEY**, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public.  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that \_\_\_\_\_, who is named as, is signed to the foregoing document as \_\_\_\_\_ of \_\_\_\_\_, who is known to me, or Whose identity I proved, and that being informed of the contents of the document, he/she, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public.  
My Commission Expires: \_\_\_\_\_