

**REQUEST FOR PROPOSALS
DISASTER RESPONSE SERVICES AND SUPPLIES**

The City of Gautier will accept sealed proposals from qualified companies until 12:00 noon on August 28, 2018, for Disaster Response Services and Supplies in Gautier, Mississippi. Proposals will be opened in the Council Chambers located in the Gautier City Hall Building at 3330 Highway 90, Gautier, Mississippi, 39553 at 1:00 P.M. on August 28, 2018.

Packages containing the Proposals must be stamped and dated before 12:00 noon addressed to Sherry Farabee, Purchasing Agent and designated as:

**"PROPOSAL FOR PRE-EVENT DISASTER RESPONSE SERVICES AND
SUPPLIES FOR THE CITY OF GAUTIER, MISSISSIPPI"**

An original and ten (10) copies of the proposal must be received in a sealed package prominently marked on the exterior with the name and address of the firm.

Submittals should be mailed or hand delivered to Sherry Farabee, Purchasing Agent, 3330 Highway 90, Gautier, Mississippi 39553. Submissions by fax or other electronic media will not be accepted. Late submissions will not be accepted, but will be returned to the sender unopened. If you have questions concerning this RFP, please contact the Purchasing Department at 228-497-8000.

Proposal specifications may be obtained from the Purchasing Department at 3330 Highway 90, Gautier, Mississippi 39553. Proposals will be evaluated based on qualifications, experiences, price, and references as described in the request for proposals.

The Owner reserves the right to reject any and all proposals received and to award said proposals in the best interest of the Owner. Furthermore, the Owner reserves the right to award any one bid item or multiple bid items to multiple contractors.

Publication Dates:

August 5th

August 12th

MISSISSIPPI PRESS

Open Date:

August 28, 2018

REQUEST FOR PROPOSALS FOR NON-EXCLUSIVE DISASTER RESPONSE FOR SERVICES AND SUPPLIES FOLLOWING A NATURAL OR MANMADE DISASTER IN THE CITY OF GAUTIER, MISSISSIPPI

The City of Gautier, Mississippi, (hereinafter "City") is seeking proposals from experienced and qualified firms for a pre-disaster/pre-storm contract at no immediate or annual cost to the City for response services and supplies in the event of a disaster and as directed by the City in order to eliminate immediate threats to public health and safety. The existence of a pre-event contract does not bind the City to activate any or all of the terms of the contract and such activation is at the sole discretion of the City Council. The contract, attached hereto and incorporated herein by reference (the "Contract"), is to be in place and Task Orders shall only be issued at the City's option in the event of a disaster.

Proposals are sought for response services and supplies for disasters. The City seeks proposals for said services City-wide. The City will evaluate the proposals and award City-wide, in its discretion.

This shall be a three-year contract utilized on an "as needed" basis with the option for the City, after the initial contract period, to renew on a yearly basis for additional one (1) year terms, not to exceed three (3) additional years. Renewals shall be in accordance with the terms herein and prices may be adjusted up or down based on the annual percentage change in the Consumer Price Index as published by the U. S. Department of Commerce, Bureau of Labor Statistics as stated further herein.

Respondent must meet the following conditions:

1. Be licensed to do business in the State of Mississippi or at a minimum be authorized to transact business in the State of Mississippi (the "State").
2. Be able to provide eligible disaster response services and supplies, as set forth in the Scope of Services attached as Exhibit "A" attached hereto and incorporated herein by reference (the "Services").
3. Be willing and capable of performing the Services in the time and manner required, including but not limited to, maintenance of proper documentation, proper documentation preparation and management, and event closure services.
4. Be knowledgeable and have experience in the provision of the Services and in insuring that all Services qualify for reimbursement as available under FEMA and MEMA, as defined by the Stafford Act.
5. Be able to perform the Services and any other agreed to services in a timely manner and on short notice, recognizing that in the event of a disaster and issuance of a Task Order pursuant to the Contract, the City desires maximum and immediate response time.

Respondent must further agree to provide the following information:

1. A Company profile which must include the firm name and business address, including telephone number.
2. Year established (include former firm names and year established, if applicable).
3. Type of ownership and parent Company, if any.

4. Identification of governmental clients for whom similar services have been provided including name of client, client contact person, description of services performed and amount of contract.
5. The person who shall serve as authorized negotiator for Respondent, should Respondent be selected to negotiate with City.
6. Whether Respondent or any employee thereof anticipated being assigned to provide disaster recovery and response services has been a defendant or plaintiff in any proceeding involving or arising out of such services within the past seven years.
7. Whether or not Respondent has had a contract related to disaster response and recovery canceled or has canceled same within the past seven years. If so, state the name and address of the other contracting party and reason.
8. Whether or not Respondent and/or its sub-contractors, which it proposes to use in response to this request, have performed work within the past five (5) years for which FEMA reimbursement was sought but which FEMA determined to be ineligible. If so, state the entity for which you performed the work, the dates of the work, the name of the storm involved or FEMA's Declaration Number, FEMA's basis for finding ineligibility, and any other information you deem relevant.
9. All Respondents must certify that neither Respondent, nor any employee thereof, has any conflict of interest, whether actual, apparent, direct or indirect, in connection with the services sought herein pursuant to Federal or Mississippi law.
10. Current obligations of Respondent, including time schedules and available staff.
11. Name, address, phone number, fax number and e-mail address of the person or firm submitting the proposal. Provide the name of the contact person and person authorized to contract for the firm.
12. The Respondent's qualifications to meet the City's objectives and perform tasks listed in the proposal. This shall include size of firm, office location from which the service is being performed, nature of staff and equipment to be employed for each type of disaster event.
13. Types of and general listing of equipment, services and supplies available for recovery projects. (Please list all other services and supplies your Company is capable of providing regardless of whether those services are requested in the Fee Schedule attached as Exhibit "B".)
14. List of all disaster specific experience within the last five (5) years, including response time, client and contact person. The Respondent should indicate, relative to response time: The location of the Contractor's firm and equipment. In the case of a major disaster explain how quickly you could mobilize based on the severity of the disaster. Please indicate how your required equipment, services, supplies and personnel would be made available within time prescribed in this document.
15. Minimum three (3) letters of reference.

In addition to the above, Respondent must address the following areas:

1. **Services:**

A. Respondent must review the Scope of Services attached hereto as Exhibit "A" and provide support for the fact that it has sufficient experience and expertise as is necessary to insure that all charges incurred by the City with respect to Respondent's Services hereunder must meet all Federal Emergency Management Agency ("FEMA") and the Mississippi Emergency Management Agency ("MEMA") eligibility requirements.

B. Request for services shall be through issuance of a Task Order and Notice to Proceed. It shall be within the sole discretion of the City to designate the services and pay items to be utilized.

2. **Payment to Respondent:**

A. Respondent shall submit a Fee Schedule on Exhibit "B". In the event of a Disaster and Authorization from the governing authorities of The City of Gautier to proceed with work, successful Respondent shall submit invoices to the City for all services provided. To receive payment, the Respondent must provide a bill of lading and receiving invoice signed by an authorized City representative.

B. Respondent acknowledges that the City will apply for FEMA or MEMA assistance. Therefore, Respondent represents that it will perform all Services hereunder in a manner, time and place so as to ensure and be consistent with such reimbursement by FEMA and MEMA to the City.

3. **Inspection by Respondent:** Respondent represents that it has inspected the City and is familiar with its road system, road widths, and other factors that will affect the work to be performed and has not relied on any representation of conditions made by any officer, agent or employee of the City. City agrees to provide whatever public information it has to assist Respondent in estimating the amount of labor and equipment and goods and materials needed. Respondent understands that any information provided by the City is meant only to assist the Respondent, and Respondent agrees to rely on its own knowledge and investigation and not any assistance provided by City. Respondent acknowledges that it is prepared for potentially adverse working conditions including, but not limited to, limited fuel supplies, limiting housing availability, limited food and water supplies, and wet and muddy conditions, and that these factors were considered in determining the costs originally agreed upon by the parties.

4. **Hours of Work:** Respondent recognizes that time is of the essence in the event of issuance of a task order and Notice to Proceed under this contract, and City desires immediate response in less than twenty- four (24) hours following the disaster, upon issuance of task order and notice to proceed, Respondent shall devote such time, attention, and resources to the performance of Respondent's services and obligations hereunder as shall be necessary to provide services and supplies needed by City within the time frame as determined and dictated by the Governing authorities of The City of Gautier, Mississippi upon Notice to Proceed; however, the date set by the Council shall be reasonable.

5. **Local Preference:** In choosing materials related to its services under this Contract, the Respondent shall give preference to materials grown, produced, prepared, made or manufactured in Mississippi, to the extent feasible and practical. To the extent feasible and practical, Respondent will make every effort to utilize and employ local subcontractors, equipment rental, supplies and other locally available resources, if applicable or available.

6. **Time of the Essence:**

A. Respondent understands that time is of the essence in the performance of this Contract.

B. The City may issue a Notice of Alert, which is notification to the Respondent that Respondent may be required to provide services for potential impending disaster. Upon Notice of Alert or notification of possible Notice to Proceed, Respondent must execute pre-staging/staging of equipment and manpower and all items necessary, to be prepared to execute and perform immediately upon Notice to Proceed. City will issue Notice of Alert, for pre-staging purposes, prior to issuance of Notice to Proceed. There shall be no costs incurred by City of any nature for pre-staging by Respondent. No costs whatsoever shall be incurred by City until Task Order designating services and pay item desired and Notice to Proceed is issued. Respondent understands that anticipating the path of Hurricanes, storms, and/or other potential disasters etc. is not an exact science and Notice to Alert is for the benefit of Respondent so that Respondent can immediately respond when notice to proceed is issued. Additionally, a representative of the Contractor must be available 24/7 once Notice of Alert is issued. In the event of communication failure, due to disaster, a Contractor representative must report to the City Manager as soon as the disaster conditions allow for further instruction by the City of Gautier. City reserves the right in severe emergency to issue task orders, notices to proceed and alerts by phone or any other available means.

C. Respondent agrees to work diligently to provide services and supplies by the earliest possible date.

7. **Staging of Labor and Equipment and Supplies:** Respondent must have enough labor, equipment, supplies and manpower to respond within twenty-four (24) hours.

8. **Indemnity:** Respondent agrees to indemnify and save harmless the City, its agents, officers and employees from and against losses and claims, demands, payments, suits, actions and judgments and damages of every kind and nature, both public and private, brought or recovered against them arising out of any act or omission of the Respondent, its agents or employees, or any of Respondent's subcontractors which results from or arises out of Respondent's performance or services under this contract.

9. **Liability Insurance:** The Respondent agrees to and shall procure and maintain during the duration of this Contract, Respondent's general public liability and property damage insurance, including auto liability and employer's liability coverage, insuring Respondent from all claims from personal injury, including death, and claims for destruction or damage to property arising out of or in connection with any operations under this Contract, whether such operations are by the Respondent or a subcontractor of the Respondent, and said insurance shall name, indemnify, defend, and hold harmless the City. All liability insurance must contain contractual action over claims cause. Insurance shall be written with limits of liability of not less than the following:

- A. \$1,000,000 primary limit, for all damages arising out of bodily injury, including death, with an umbrella coverage of \$4,000,000.
- B. \$1,000,000 primary limit for all property damage, with an umbrella coverage of \$4,000,000.

10. **Workers' Compensation Insurance:** Respondent shall provide and maintain at its expense during the term of this Contract, in accordance with workers' compensation laws of the State of Mississippi, including occupational disease provisions, for all of the Respondent's employees, and in case any work is sublet, Respondent shall require any such subcontractor similarly to provide Workers' Compensation Insurance, including occupational disease provisions, for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Respondent. In case employees engaged in hazardous work under this contract

are not protected under the Workers' Compensation Law, the Respondent shall provide, and shall cause each subcontractor to provide adequate and suitable insurance for the protection of its employees not otherwise protected. Any uninsured subcontractors are hereby deemed to be covered by the Respondent's workers' compensation coverage.

11. **Performance Bond:** Respondent agrees to provide the City with performance bond payable to, in favor of, or for the protection of the City for the work to be performed under this Contract in the amount of \$2,500,000 conditioned for the full and faithful performance of this Contract. Respondent will provide the name of the bonding Contractor.

12. **Payment Bond:** Respondent agrees to provide the City with a payment bond conditioned for the prompt payment of all persons supplying labor or material in the performance of the work in the amount of \$2,500,000. Respondent will provide the name of the bonding Contractor.

13. **Subcontractors:** Respondent will provide the names and business addresses of any known subcontractors or teams which you plan on utilizing. Upon issuance of task order, Respondent must provide names, addresses of all subcontractors or teams to be utilized. All information required of submitting Respondent is also required from any proposed subcontractor or firm which Respondent expects to utilize. Respondent is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. Respondent, by submitting this proposal, agrees that it shall exercise all necessary and reasonable steps to insure that Minority Business Enterprises and Woman Business Enterprises participate in the work required and shall not discriminate on the basis of race, color, national origin or sex and will require any contract with subcontractors to contain this provision. Respondent acknowledges that it is completely responsible for the actions or inactions of its subcontractors.

14. **Safety:** It shall be the sole responsibility of Respondent to ensure and provide for all safety precautions necessary in the performance of the contract, including food safety and preparation.

15. **Performance:** Respondent shall perform its obligations hereunder in a manner so as not to interfere with the normal operations of the City. Such performance by Respondent shall be in compliance with all applicable local, State and federal laws and regulations.

16. **Proprietary Information:** The Respondent should mark any and all pages of the proposal considered to be proprietary information. Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

17. **Debarment:** By submitting a proposal, the Respondent certifies that it is not currently debarred from submitting proposal for contracts issued by any political subdivision or agency of the State of Mississippi or the United States of America and that it is not a person or entity that is currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi or the United States of America.

18. **Non-Collusion:** By submitting a response to this RFP, the Respondent represents and warrants that such proposal is genuine and not a sham or collusive or made in the interest or in behalf of any person not therein named and that the Respondent has not directly or indirectly induced or solicited any other respondent to put in a sham proposal, or any other person, firm or corporation to refrain from submitting and that the Respondent has not in any manner sought by collusion to secure to that Respondent any advantage over any other respondent. By submitting a proposal, the Respondent represents and warrants that no official or employee of The City of Gautier has, in any manner, an interest, directly or indirectly in the proposal or in the contract which may be made under it, or in any expected profits to arise there from.

THIS IS A REQUEST FOR PROPOSALS AND IS NOT AN OFFER.

The City reserves the right to reject all proposals. The City of Gautier will establish a selection committee made up of five City Employees to rank and rate the proposals based on the following scale:

Qualifications	20 Points
Experience	20 Points
Price	50 Points
References	10 Points

After the proposals have been rated and ranked, the selection committee will develop recommendations of the respondent(s) that it determines to be responsible, responsive, fully qualified and best suited among those submitting proposals to fulfill the purposes of the RFP in a cost-effective manner. The recommendations will be submitted to City Council to designate the most qualified proposal(s), and then for negotiations and awarding of a contract(s). The City reserves the right to seek additional/supplemental representation on specific issues as needed. The City further reiterates this is a request for proposals for a non-exclusive contract. Choice of companies, if any, is within the sole discretion of City. The City's opinion as to qualifications and best interest of the City is final and fully vested in the City.

THE FOLLOWING STANDARD TERMS AND CONDITIONS WILL BE INCLUDED IN ANY CONTRACT AWARDED FROM THIS REQUEST FOR PROPOSALS

A. Authority to Contract: Contractor warrants: (a) that it is a validly organized business with valid authority to enter into the Contract with The City of Gautier; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under the Contract is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; (d) notwithstanding any other provision of the Contract to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under the Contract; (e) that the Contractor is not barred from contracting with The City of Gautier; and (f) that the contractor is at least eighteen (18) years old.

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

C. Compliance with Laws and Regulations: The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified. All applicable federal and State laws, municipal and City ordinances, and the rules and regulations of FEMA, MEMA and all other authorized agencies and entities having jurisdiction over any part of this Contract shall apply to this Contract, and this Contract shall be interpreted in a manner consistent with all such laws, ordinances, rules and regulations. Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 – 7671q.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. (1251-1387) and will report any violations to the County, FEMA or other applicable federal agency, and the regional Office of the Environmental Protection Agency (EPA). Where applicable, Contractor agrees to

comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and Contractor will comply with the Energy Policy and Conservation Act (42 U.S.C. 6201) as well as any mandatory standards and policies relating to energy efficiency contained within any state energy conservation plan issued in compliance therewith.

D. Nondiscrimination: The Contractor understands that The City of Gautier is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the Contract that it will strictly adhere to this policy in its employment practices and provision of services.

E. Failure to Provide Service: If the Contractor fails to provide any services as discussed hereunder or fails to meet any obligations contained herein, the City reserves the right, in its sole discretion, to terminate the contract under Section 18 of the Contract, or the City may provide a time table to allow the Contractor to cure the default based upon the exigent circumstances.

F. Termination for Convenience: The City shall have the right to terminate the Contract without cause and at its convenience, upon written notice to the Contractor, and without damage, penalty, liability, additional cost or expenses paid by or assessed to the City. If the Contract is terminated by the City for convenience, the Contractor will be paid for the work completed as of the date of termination. The effective date of termination shall be as specified in the notice of termination.

G. Law to Govern: The Contract shall be construed and enforced in accordance with the laws of the State of Mississippi, without regard to conflicts of laws. The parties acknowledge that the Contract is made and entered into in The City of Gautier, Mississippi and will be performed in Gautier, Mississippi. The parties further acknowledge and agree that Mississippi law shall govern all the rights, obligations, duties and liabilities of the parties under contract and that Mississippi law shall govern the interpretation and enforcement of the contract and any and all legal matters relating to the Contract. Any action to enforce the terms and provisions hereof shall be commenced in the Circuit or Chancery Court of Jackson County, Mississippi. By executing the Contract, the Contractor submits to the jurisdiction of said courts and hereby irrevocably waives any and all objections that it may have with respect to venue in any court sitting in Jackson County, Mississippi.

H. E-Verification: By submitting this proposal, Respondent represents and warrants that it will ensure its compliance with Miss. Code Ann. §71-11-1 and §71-11-3, and will register and participate in the status verification system for all newly hired employees.

LIMITATIONS

A. This request does not commit the City to the award of a contract or to pay any costs incurred in the preparation for a response to this request.

B. Proposals which do not conform to the requirements set forth in this RFP may be rejected by the City. Proposals may be rejected for reasons which include, but are not limited to, the following:

- a) The proposal contains unauthorized amendments to the requirements of the RFP;
- b) The proposal is conditional;
- c) The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous;
- d) The proposal is received late;
- e) The proposal is not signed by an authorized representative of the party;
- f) The proposal contains false or misleading statements or references;

- g) The proposal does not offer to provide all services required by the RFP; or
- h) The Respondent's Certification and Statement of Non-Collusion is not included or is not complete.

C. City reserves the right to reject any and all proposals, waive informalities, request additional information, and if an award is made, to award based on City's opinion as to whom is most advantageous for the City based on the selection criteria. This clause in no way requires the City to waive informalities or irregularities.

D. City is not responsible for any expenses which proposers may incur in the preparation and submittal of proposal requested by this RFP, including but not limited to, costs with travel, accommodations, interviews, or presentations.

**REQUEST FOR PROPOSALS
DISASTER RESPONSE SERVICES AND SUPPLIES**

RESPONDENT'S CERTIFICATION AND STATEMENT OF NON-COLLUSION

This form is to be completed by all respondents and included in their submitted proposal.

RESPONDENT: _____

CONTACT PERSON: _____

PHONE NUMBER: _____

EMAIL ADDRESS: _____

Certification of Independent Price Determination: The Respondent certifies that the prices submitted in response to this solicitation have been arrived at independently and without - for the purpose of restricting competition - any consultation, communication, or agreement with any other proposal or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

Representation Regarding Contingent Fees: The Respondent represents that it has not retained a person to solicit or secure a Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Respondent's bid or proposal.

Employees Not to Benefit: The Respondent hereby certifies that if the contract is awarded to our firm, partnership, or corporation, that no employee of The City of Gautier, Mississippi or members of his/her family, including spouse, parents or children has received or been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political contribution or any similar form of remuneration on account of the act of awarding and/or executing this contract. A selection committee made up by qualified Gautier representatives and staff shall review and evaluate all replies. It is important that respondents emphasize specific information pertinent to the work.

Representation Regarding Gratuities: The Respondent hereby certifies that is has not offered, is not offering, and will not offer any gratuities, favors, or anything of monetary value to any official, employee, or agent of The City of Gautier for the purpose of influencing consideration of this proposal.

Conflicts of Interest: The Respondent [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest.

Collusion: The Respondent certifies that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same services, materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal laws and can result in fines, prison sentences, and civil damage awards.

I hereby certify that the responses to the above representations, certifications and other statements are accurate and complete. I agree to abide by all conditions of the proposal and certify that I am authorized to sign for my Company.

Signature

Date

Name (Printed)

Title

EXHIBIT A

SCOPE OF SERVICES

The primary purpose of this scope of services is to provide services and supplies to the City as needed to maintain the public health, safety and well-being during the response to an emergency/disaster situation in the shortest time period possible. Company understands and agrees that the provision of supplies and services as requested in the most expeditious manner possible is of the utmost importance and it will provide services requested within twenty-four (24) hours of a request by City to do so.

The City may elect to hire a consultant to monitor the performance and eligibility issues associated with this Contract.

THIS IS A PRE-EVENT CONTRACT. The City, at its sole discretion, may seek some, all or none of the services on the fee schedule and may, during an emergency, require additional services not addressed on the fee schedule, depending on the severity of the event. Each service or any service may only be performed after a Task Order has been issued by City and a Notice to Proceed given as to that particular service. Time for service provision by Company is in City's sole discretion, and City will dictate time of service and supplies desired on the Task Order issued. This contract is for the provision of services and supplies in the event of a disaster as directed by the City in order to assist in eliminating immediate threats to public health and safety.

1. Documentation and Recovery Process: Company will provide the following in addition to provision of services and supplies:

- A. Recovery process documentation-create recovery process documentation plan.
- B. Maintain documentation of recovery process.
- C. Provide written and oral status as requested by the City.
- D. Review documentation for accuracy and quantity.
- E. Assist in preparation of claim documentation.

These costs for the documentation and recovery process shall be included in the items in the pricing attachments. Proposer shall have proven experience with overall management and FEMA requirements, rules and regulations to qualify for this scope.

2. Equipment:

A. All equipment and vehicles utilized by the Company shall meet all the requirements of federal, state and local regulations including, without limitation, all DOT, MDOT and safety regulations, and are subject to the approval of the City.

B. Upon Notice to Proceed, the Company shall furnish a complete and updated list identifying truck and trailers that will be used in the transport of supplies. The listing shall include the following information:

1. Truck and/or trailer license number.
2. Year, make and color of each truck and/or trailer.
3. Cubic yardage of each trailer.

C. Each truck and trailer passing through receiving check points shall be identified by a contractor's logo and an identifying number that ties the vehicle to the above information. Any vehicle not matching the above information or not containing other identification as may be required by the City shall not be given credit for supplies being transported.

3. Services and Emergency Protective Measures.

The City may elect to request any of the following services or any sub-part thereof. These Services will be on an as requested basis and be dictated by several factors, including but not limited to the severity of the event, the City's level of need, and the provision of these services through other means.

A. Fuel Supply

Company shall have available 5,000 gallons of diesel and 5,000 gallons of unleaded gasoline for vehicles owned by The City of Gautier, including police cruisers and fire/rescue vehicles. Company will provide sufficient personnel and equipment to maintain and secure, at a minimum, five (5) distribution points as selected by the City.

B. Janitorial, Laundry and Catering Services for City workers.

Company shall be able to provide:

1. sufficient personnel and equipment to maintain and secure, at a minimum, four (4) service centers;
2. three meals a day with "hot" morning and evening meals at the service centers for a maximum of 150 City employees (*for Company's planning purposes only*; no amount is guaranteed);
3. transportation to deliver meals to and pick up laundry from locations outside the service centers;
4. Portable shower services; and
5. Laundry and janitorial services as directed.

C. Temporary Shelter Space

At sites selected by the City, Company shall provide temporary shelter (with option for air conditioning & heating) for:

1. City office space;
2. Volunteer Organizations;
3. City of Gautier Residents; and
4. Other groups as directed by the City.

D. Generators (5kw to 350kw), Satellite Telecommunications, Portable Lighting and Other Emergency Supplies. Service and maintain such stocks of equipment for the period required.

E. Portable Toilet Facilities and Related Wastewater Collection and Disposal Services.

F. Life Support Services -- Water, Ice, Pre-packaged Meals (e.g., Meals-Ready-to-Eat) and First Aid Stations.

G. Provide other disaster response and recovery activities, as necessary and as specifically directed and authorized.

4. Task Order Required.

None of the services shall be initiated unless specifically authorized by an executed Task Order duly issued by the City. Each Task Order shall delineate the specific tasks to be accomplished, the estimated period within which the task should be accomplished, the pay item on Exhibit "B" authorized and may contain a "Do Not Exceed" price. However, if the Council finds on its minutes that existing emergency conditions make the issuance of task orders detrimental to the best interest of The City of Gautier, then the City Council may waive a portion or all of the task order requirement.

EXHIBIT B

DISASTER RESPONSE SERVICE AND SUPPLIES FEE SCHEDULE

The costs listed shall include all expenses in any way related to the service/supply, including delivery and maintenance. The Respondent shall provide prices in the units provided below. **“Cost plus percentage” prices cannot be accepted, and the Respondent risks rejection of the proposal if they are provided in this manner with the exception of Item number 23.**

Item	Description of Service	Cost	Unit
1.	Sleep trailers – specify number of beds per trailer _____ beds per trailer		Per Week
2.	Sleep tents – specify number of beds per tent _____ beds per tent		Per Week
3.	Bed units (Cots, Pillows, Sheets, Blankets)		Per Week
4.	Catering/Food Preparation A. Hot meal (drinks included w/meal) Full USDA Calorie Requirement B. Box lunch (drinks included w/meal) Full USDA Calorie Requirement (Not MRE)	_____ _____	Per Meal
5.	Ice - Specify size _____ LB bag		Per Bag
6.	Reefer/Refrigerated trailers 53' trailer not including fuel		Per Week
7.	Shower trailers w/all water supply _____ person per trailer		Per Week
8.	Portable restrooms (1) standard POL		Per Week
9.	Pump truck for port a john/shower trailers (1) service per day		Per Week
10.	Hand wash units w/ water supply– (1) specify type _____		Per Week
11.	Bottled Water per case- specify size and bottles per case _____ oz/ _____ per case		Per Case
12.	Tower/Area Lighting – standard 4000 watt		Per Week
13.	First aid kit – supplies to accommodate 700 people		Per Week
14.	Trash receptacles – 20 cu yd. dumpster delivered		Per Week
15.	Garbage disposal per dump		Per Week
16.	Distribution panel for internet 1 (hot spot)		Per Week
17.	Forklifts – minimum 6000lb all-terrain		Per Week
18.	Air conditioning and heating 10T portable unit		Per Week
19.	Generators/Power Distribution/ with power cord 5Kw 100Kw 350Kw	_____ _____ _____	Per Week
20.	Temporary office space, fully equipped, furnished Specify size _____		Per Week
21.	Laundry service per person		Per Week
22.	Satellite telecommunications		Per Week
23.	Emergency fuel and distribution Gas - Bulk price delivered Diesel - Bulk price delivered	_____ _____	Cost + Fixed Fee
24.	Fueling stations - Operation and monitored at designated sites per each location		Per Week

SERVICES PROVIDED AT NO COST:

- A. Training and Assistance- Sessions for all key personnel and assistance in all disaster recovery planning efforts as requested.
- B. Preliminary Damage Assessment- Determining the impact and magnitude of the disaster event to help expedite any applications for federal assistance.
- C. Mobilization and Demobilization- All arrangements necessary to mobilize and demobilize the Company's labor force and equipment needed to perform the Scope of Services contained herein shall be made by the Company.
- D. Temporary Storage of Documents- The Company shall provide storage of daily or disaster related documents and reports for protection during the disaster event.
- E. Reporting and Documentation- The Company shall provide and submit to any Consultant of the City and the City reports and documents as may be necessary to adequately document its performance of the Contract, to include all requirements for documentation requested by FEMA and MEMA for reimbursement of costs.

STATE OF MISSISSIPPI

CITY OF GAUTIER

**NON-EXCLUSIVE CONTRACT FOR DISASTER RESPONSE AND RECOVERY SERVICES
FOR SERVICES AND SUPPLIES IN THE CITY OF GAUTIER**

This contract ("Contract") is made and entered into on the _____ day of _____, by and between The City of Gautier, Mississippi (the "City"), and _____ ("Contractor"), authorized to transact business in the State of Mississippi (the "State").

WHEREAS, The City of Gautier is a coastal city which is subject to severe property damage and to loss of essential services as a result of natural and man-made disasters, particularly hurricanes; and

WHEREAS, the City desires to retain the services of Contractor, and Contractor desires to provide services for disaster response and recovery services and supplies as more particularly described in the Scope of Services set forth on Exhibit "A" attached hereto and incorporated herein by reference (the "Services"); and

WHEREAS, the Contractor represents that it is willing and capable of performing the services and providing supplies requested, including, but not limited to, proper documentation, preparation, management, and event closure services; and

WHEREAS, Contractor represents that it is knowledgeable and has experience in the provision of the services and supplies and in identifying the Services which are eligible for reimbursement under FEMA and MEMA, as hereinafter defined; and

WHEREAS, Contractor acknowledges that this is a Pre-Event Contract and provides the general conditions and terms that City may, as its sole option and discretion, issue specific task orders under;

NOW, THEREFORE, for and in consideration of the terms and conditions herein provided, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the City and Contractor hereby contract and agree as follows:

1. **Authority to Contract:** Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this Contract; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this Contract is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; (d) notwithstanding any other provision of this Contract to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Contract; and (e) that the Contractor is not barred from contracting with The City of Gautier; and (f) that the contractor is at least eighteen (18) years old.

2. **Services:**

A. Contractor's responsibility under this Contract is to provide all of the Services as more specifically set forth in the Scope of Services attached hereto as "Exhibit A", as needed and as requested by City. Contractor agrees that it will not charge the City for any work or services that are not Eligible Services without prior

approval by the City Council reflected on its minutes. City shall have the option to request additional services and supplies during an emergency not addressed in Exhibit "B". At the time of emergency, City will request a price and Contractor will provide quotes for additional services not addressed on the Fee Schedule or Exhibit "B". All services on Exhibit "B" shall be provided at the prices provided therein.

B. The representative of Contractor who shall serve as Contractor's representative and liaison to the City during the performance of this Contract shall be

_____, whose telephone number is (____) _____-_____. City reserves the right to require replacement of representative of Contractor if, in the opinion of the City, problems or deficiencies with the representative arise. Prior to requiring removal, City shall notify Contractor of the alleged problems or deficiencies and give Contractor fourteen (14) days to correct the problems or deficiencies. If the problems or deficiencies are not corrected within the fourteen (14) days, City may elect to require removal.

C. All disposal, if any, shall be the responsibility of the Contractor. It is the responsibility of the Contractor to see that the waste is removed and disposed of in accordance with all laws and regulations of any state and federal agencies. It is the responsibility of Contractor to contract with and compensate disposal sites. There shall be no back charge to City for disposal costs or tipping fees.

3. Payment to Contractor:

A. Contractor shall be paid for the Services rendered and accepted per authorized task order and designated pay item in accordance with the rates specified in the Rate Schedule attached hereto as Exhibit "B".

B. Contractor acknowledges that the City will apply for FEMA or MEMA assistance. Therefore, Contractor represents that it will perform all Eligible Services hereunder in a manner, time and place so as to ensure and be consistent with such reimbursement by those agencies to the City.

C. The City shall withhold from all payment to Contractor hereunder a 10% retainage until Contractor has fully performed and City has verified performance of all of its obligations under the task order, not to exceed 120 days after completion of the task order.

D. All invoices received from Contractor pursuant to this Contract will be reviewed and approved by a City representative. Contractor acknowledges that all invoices properly submitted to the City will be paid within six (6) months of said submission.

E. The City does not guarantee Contractor a specific amount of work under this Contract or a specific amount of compensation hereunder.

F. Contractor shall clearly include the words "final invoice" on Contractor's final billing to the City. This statement by Contractor shall constitute Contractor's certification that all services and supplies have been properly and completely performed by Contractor and all charges and costs have been properly invoiced to the City and shall separate Eligible Services from Ineligible Services. Since this account will thereupon be closed, any and all further charges, if not properly included on this final invoice, shall be deemed waived by Contractor.

4. Inspection by Contractor: Contractor represents that it has inspected the City and is familiar with its road system, road widths, and other factors that will affect the work to be

performed and has not relied on any representation of conditions made by any officer, agent or employee of the City. City agrees to provide whatever public information it has to assist Contractor in estimating the amount of labor and equipment and goods and materials needed should a task order be issued. Contractor understands that any information provided by the City is meant only to assist the Contractor, and Contractor agrees to rely on its own knowledge and investigation and not any assistance provided by City. Contractor acknowledges that it is prepared for potentially adverse working conditions including, but not limited to, limited fuel supplies, limiting housing availability, limited food and water supplies, and wet and muddy conditions, and that these factors were considered in determining the costs originally agreed upon by the parties.

5. Hours of Work: Contractor recognizes that time is of the essence in the event of issuance of a task order and notice to proceed under this contract and City desires response and performance immediately, within twenty-four (24) hours.

6. Local Preference: In choosing materials related to its services under this Contract, the Respondent shall give preference to materials grown, produced, prepared, made or manufactured in Mississippi, to the extent feasible and practical. To the extent feasible and practical, Respondent will make every effort to utilize and employ local subcontractors, equipment rental, supplies and other locally available resources, if applicable or available.

7. Time of the Essence:

A. Contractor understands that time is of the essence in the performance of this Contract.

B. Notice of Alert Is: Upon Notice of Alert or notification of possible Notice to Proceed, Contractor must execute pre-staging/staging of equipment and manpower and all items necessary, to be prepared to execute and perform immediately upon Notice to Proceed. City will issue Notice of Alert, for pre-staging purposes, prior to issuance of Notice to Proceed. There shall be no costs incurred by City of any nature for pre-staging by Contractor. No costs whatsoever shall be incurred by City until Task Order designating services and pay item desired and Notice to Proceed is issued. Contractor understands that anticipating the path of Hurricanes, storms, and/or other potential disasters, etc. is not an exact science and Notice to Alert is for the benefit of Contractor so that Contractor can immediately respond when Notice to Proceed is issued. Additionally, a representative of the Contractor must be available 24/7 once Notice of Alert is issued. In the event of communication failure, due to disaster, a Contractor representative must report to City of Gautier's Emergency Service Director, Robert Jones, as soon as the disaster conditions allow, for further instruction by City Council.

C. Contractor agrees to work diligently to complete this Contract by the earliest possible date.

8. Staging of Labor and Equipment: Contractor must have enough labor, equipment and supplies to respond within twenty-four (24) hours to Task Orders issued and/or requests by City.

9. Indemnity: Contractor agrees to indemnify and save harmless the City, its agents, officers and employees from and against all losses and claims, demands, payments, suits, actions and judgments and damages of every kind and nature, both public and private, brought or recovered against them arising out of any act or omission of the Contractor, its

agents or employees, or any of Contractor's subcontractors which results from or arises out of Contractor's performance or services under this contract.

10. Liability Insurance: The Contractor agrees to and shall procure and maintain during the duration of this Contract, Contractor's general public liability and property damage insurance, including auto liability and employer's liability coverage, insuring Contractor from all claims from personal injury, including death, and claims for destruction or damage to property arising out of or in connection with any operations under this Contract, whether such operations are by the Contractor or a subcontractor of the Contractor, and said insurance shall name, waive and hold harmless the City. All liability insurance must contain contractual action over claims cause. Insurance shall be written with limits of liability of not less than the following:

- A. \$1,000,000 primary limit, for all damages arising out of bodily injury, including death, with an umbrella coverage of \$4,000,000.
- B. \$1,000,000 primary limit for all property damage, with an umbrella coverage of \$4,000,000.

11. Workers' Compensation Insurance: Contractor shall provide and maintain at its expense during the term of this Contract, in accordance with workers' compensation laws of the State of Mississippi, including occupational disease provisions, for all of the Contractor's employees, and in case any work is sublet, Contractor shall require any such subcontractor similarly to provide Workers' Compensation Insurance, including occupational disease provisions, for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Contractor. In case employees engaged in hazardous work under this contract are not protected under the Workers' Compensation Law, the Contractor shall provide, and shall cause each subcontractor to provide adequate and suitable insurance for the protection of its employees not otherwise protected. Any uninsured subcontractors are hereby deemed to be covered by the Contractor's workers' compensation coverage.

12. Performance Bond: Contractor agrees to provide the City with performance bond payable to, in favor of, or for the protection of the City for the work to be performed under this Contract in the amount of \$2,500,000 conditioned for the full and faithful performance of this Contract. Provide the name of the bonding Contractor. Failure to respond to task order issued in the event of a disaster within time provided herein shall result in forfeiture of bond.

13. Payment Bond: Contractor agrees to provide the City with a payment bond conditioned for the prompt payment of all persons supplying labor or material in the performance of the work in the amount of \$2,500,000. Provide the name of the bonding Contractor.

14. Certificate of Insurance: Certificates of insurance acceptable to the City shall be filed with the City upon execution of this Contract. These certificates shall contain provisions that all required coverages afforded under the policies required by this Contract will not be canceled unless at least thirty (30) days prior written notice has been given to the City.

15. Independent Contractor: At all times and under all conditions, Contractor shall continue to be an independent contractor and shall not represent itself in any way as an agent of the City.

16. Federal Approval: This Contract and all attachments hereto are subject to FEMA and MEMA approval, and are subject to modifications as FEMA and MEMA may require.

17. Failure to Provide Service: If the Contractor fails to provide any services as discussed hereunder or fails to meet any obligations contained herein, the City reserves the right, in its sole discretion, to terminate the contract under Section 18 of this Contract, or the City may provide a time table to allow the Contractor to cure the default based upon the exigent circumstances.

18. Termination: If Contractor's performance under this Contract shall not be acceptable to the City, the County may terminate this Contract upon written notice to Contractor, who shall be paid for the work performed to the time of termination. The termination of this Contract by the City for inadequate performance shall not relieve Contractor of any obligations and liabilities that have accrued at the time of such termination. If this Contract is so terminated, the City shall be liable only for goods or services then delivered by Contractor and accepted by the City. Such termination shall be effective as of the date and time designated by the City. A determination of what constitutes inadequate performance is in City's sole discretion.

19. Termination for Convenience: The City shall have the right to terminate the Contract without cause and at its convenience, upon written notice to the Contractor, and without damage, penalty, additional cost or expenses paid by or assessed to the City. If the Contract is terminated by the City for convenience, the Contractor will be paid for the work completed as of the date of termination. The effective date of termination shall be as specified in the notice of termination.

20. Term of Contract: The term of this Contract is for three (3) years from the date of execution with the option for the City, after the initial contract period, to renew on a yearly basis for additional one (1) year terms, not to exceed three (3) additional years.

21. Use of Care by Contractor: Contractor shall at all times use reasonable care not to damage or further damage any City or private property not already damaged by disaster event. Should any property be damaged due to negligence on part of Contractor, City may either bill Contractor for damages or withhold funds due to Contractor.

22. Performance - Highest Standards: Contractor agrees to perform the contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations and permits. Only the highest quality workmanship will be acceptable. Services and/or workmanship not conforming to contract documents or meeting approval of City may be rejected. Replacements and/or rework, as required, will be accomplished at no cost to City.

23. Personnel: Contractor represents and warrants to the City that Contractor has, or shall secure at its own expense prior to the commencement of services hereunder, all necessary personnel required to perform the services under this Contract. Such personnel shall not be deemed to be employees or agents of the City or to have any contractual relationship with the City. All services required of Contractor hereunder shall be performed by Contractor or under its supervision, and all personnel engaged in performing such services shall be fully qualified, and if necessary, authorized under applicable law to perform such services. Any changes or substitutions in Contractor's key personnel must be approved in advance by the City. Contractor represents and warrants to the City that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. Contractor shall remove from the work described in this Contract any person the City deems to be incompetent, careless or otherwise objectionable.

24. Subcontractors: Contractor shall be responsible for the compliance of all subcontracting parties with the terms of this Contract and with any applicable local, State or federal laws or regulations. Contractor is encouraged to seek minority and women

business enterprises for participation in subcontracting opportunities. Contractor, by executing this Contract, agrees that it shall exercise all necessary and reasonable steps to insure that Minority Business Enterprises and Woman Business Enterprises participate in the work required in this Contract and shall not discriminate on the basis of race, color, national origin or sex. Contractor shall require inclusion of this provision in all subcontracts for this Contract. Contractor shall not employ any subcontractors who are on any FEMA listing of debarred contractors. Contractor shall be solely responsible for timely paying its subcontractors. The City reserves the right to reject the selection of any subcontractor and to inspect the facilities and equipment of any subcontractor. If any subcontractor fails to perform or make progress, as required by this Contract, and the replacement of such subcontractor is necessary in order to complete the work hereunder in a timely fashion, Contractor shall promptly replace such subcontractor, subject to the City's approval of the new subcontractor.

25. **Safety:** Provision of adequate safety is solely Contractor's responsibility and Contractor shall indemnify and hold City harmless for any claim of any kind and nature resulting from or arising out of inadequate safety allegations.

26. **Federal and State Taxation:** The City is exempt from payment of Mississippi Sales and Use Taxes. Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations to the City, nor is Contractor authorized to use the City's Tax Exemption Number in securing such materials. Contractor shall be responsible for payment of its own taxes and its share of its employee FICA and Social Security benefits with respect to work performed under or contemplated by this Contract and all other applicable taxes.

27. **Successors and Assigns:** This Contract shall be binding upon the parties and their respective successors and assigns; provided, however, that this Contract may not be assigned by Contractor without the prior written consent of the City, which consent may be withheld at the sole and absolute discretion of the City. No provision hereof shall be deemed to create any personal liability on the part of any officer or agent of the City of Gautier, nor shall this Contract be deemed to create any rights or benefits to any person other than the City or Contractor.

28. **Cost of Services:** Contractor shall bear the costs of performing all contracted services hereunder as directed by City, including, but not limited to, disposal, all items referenced in the Fee Schedule and Scope of Services that must be provided with no additional pay item, plus, applicable permit and license fees and all maintenance costs required to maintain its vehicles and other equipment in a condition and manner adequate to accomplish and sustain all contracted services as set out in this Contract.

29. **Costs/Contract Renewal:** The Fee Schedule may be reviewed upon notice of renewal by City to amend unit costs up or down to reflect current Consumer Price Index annual increase for said services. Any amendments reflecting adjustment in price must be reviewed and approved by City by action reflected on its minutes.

30. **Progress Reports:** Contractor shall provide progress reports to the City on a weekly basis or more frequently as requested by the City.

31. **Default:** Either party shall be in default hereunder upon the failure to perform any material provision hereof. In the event of a default by the City, Contractor shall be entitled to exercise any and all rights and remedies available under the laws of the State, In the event of a default by Contractor, the City shall be entitled to exercise any or all of the following remedies, alone or in conjunction with others: (a) the termination of this Contract; (b) the withholding of the retainage specified herein to be applied to damages incurred by

reason of such default; and (c) the exercise of all other rights and remedies available under the laws of the State.

32. Credit: Contractor shall not pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Contractor further represents and warrants that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

33. Performance: Contractor shall perform its obligations hereunder in a manner so as not to interfere with the normal operations of the City. Such performance by Contractor shall be in compliance with all applicable local, State and federal laws and regulations.

34. Disclosure and Ownership of Documents: Contractor shall deliver to the City for approval and acceptance, prior to the City's final payment hereunder, all documents and materials prepared and/or utilized by Contractor in connection with this Contract. All oral and written information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the City, or at its expense, will be kept confidential by Contractor and will not be disclosed by Contractor to any other person or entity, either directly or indirectly, without the City's prior written consent, unless otherwise required by lawful court order, after a hearing at which the City is represented. All drawings, maps, sketches, programs, data bases, reports and other data developed, produced, created or purchased under or pursuant to this Contract for or at the City's expense shall be and remain the City's sole property and may be reproduced at the discretion of the City. All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made relating to disclosure or ownership of documents and information, shall survive the execution, delivery, and termination of this Contract.

35. Access and Audits: Contractor shall maintain adequate records to justify all charges, expenses and costs incurred in performing the Services for a period of at least three (3) years following completion of this Contract. The City shall have full and complete access to all records, documents, and information collected and/or maintained by Contractor and all others in the course of the administration and performance of this Contract. This information shall be accessible at Contractor's local place of business in the City, for purposes of inspection, reproduction and audit without restriction. If records are unavailable in the City, Contractor shall ensure that all required records are provided to the City at Contractor's expense.

36. Nondiscrimination: Contractor understands that the City of Gautier is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the Contract that it will strictly adhere to this policy in its employment practices and provision of services.

37. Entire Agreement: This Contract constitutes the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted from, modified, superseded or otherwise changed, except by written instrument executed by the parties hereto,

38. Severability: If any term or provision of this Contract shall be held to be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

39. Modifications of Work: The City reserves the right to make changes in the Services, including alterations, reductions or additions thereto, Upon receipt by Contractor of the City's notification of a contemplated change, Contractor shall (a) if requested by the City, provide an estimate for the increase or decrease in cost due to the contemplated change, (b) notify the City of any estimated change in the completion date, and (c) advise the City in writing if the contemplated change shall affect Contractor's ability to meet the completion dates or schedules of this Contract. If the City so instructs in writing, Contractor shall suspend work on that portion of the services affected by a contemplated change, pending the City's decision to proceed with the change. If the City elects to make the change, the City shall issue a contract amendment or change order and Contractor shall not commence work on any such change until such written amendment or change order has been issued and signed by both parties.

40. Non-Exclusive Contract: This Contract shall be non-exclusive, and the City may procure the services or supplies contemplated hereby from other sources at the City's discretion.

41. Governing Law; Venue: This Contract shall be construed and enforced in accordance with the laws of the State of Mississippi, without regard to conflicts of laws. The parties acknowledge that the Contract is made and entered into in Gautier, Mississippi and will be performed in Gautier, Mississippi. The parties further acknowledge and agree that Mississippi law shall govern all the rights, obligations, duties and liabilities of the parties under contract and that Mississippi law shall govern the interpretation and enforcement of the contract and any and all legal matters relating to the Contract. Any action to enforce the terms and provisions hereof shall be commenced in the Circuit or Chancery Court of Jackson County, Mississippi. By executing this Contract, the Contractor submits to the jurisdiction of said courts and hereby irrevocably waives any and all objections that it may have with respect to venue in any court sitting in Jackson County, Mississippi.

42. Compliance with Laws and Regulations: The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified. All applicable federal and State laws, municipal and City ordinances, and the rules and regulations of FEMA, MEMA and all other authorized agencies and entities having jurisdiction over any part of this Contract shall apply to this Contract, and this Contract shall be interpreted in a manner consistent with all such laws, ordinances, rules and regulations. Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 – 7671q.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. (1251-1387) and will report any violations to the City, FEMA or other applicable federal agency, and the regional Office of the Environmental Protection Agency (EPA). Where applicable, Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and Contractor will comply with the Energy Policy and Conservation Act (42 U.S.C. 6201) as well as any mandatory standards and policies relating to energy efficiency contained within any state energy conservation plan issued in compliance therewith.

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

lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

44. E-Verification: Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Miss. Code Ann. Section 71-11-1 and 71-11-3, and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the City, to provide a copy of each such verification to the City. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of these warranties, the breach of which may subject Contractor to the following:

1. termination of this Contract and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public;
2. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or
3. both -- in the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the City due to contract cancellation or loss of license or permit.

45. Incorporation of Contract Documents: The Contract between City and Contractor shall consist of this document and all exhibits referenced herein, the Request for Proposal and the Contractor's Response to the Request for Proposals. If the documents are in conflict, the order of precedence shall be as follows: Non-Exclusive Contract for Services and Supplies with Exhibits, Request for Proposals for Non-Exclusive Contract with Exhibits, then the Contractor's Response to the Request for Proposals.

46. Notices: All notices and communications required or permitted by this Contract shall be deemed to have been given if sent by certified mail, return receipt requested, to the parties as follows:

If to the City of Gautier:

Sherry Farabee, Purchasing Agent
City of Gautier
3330 Highway 90
Gautier, MS 39553

If to Contractor:

WITNESS WHEREOF, the parties have entered into this Contract on the day and year first above written.

PAULA YANCEY, CITY MANAGER

CONTRACTOR