

**FIRST AMENDMENT OF AGREEMENT
FOR SERVICES**

THIS AGREEMENT is made as of the 29th day of Apr. '10, 2010, between **THE CITY OF LEESBURG, FLORIDA** a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **POST, BUCKLEY, SCHUH & JERNIGAN** (aka PBS&J) whose address is 1616 East Millbrook Road, Suite 310, Raleigh, NC 27609 (hereinafter referred to as the "CONTRACTOR").

WITNESSETH:

THAT, on November 13, 2007, the City and Contractor entered into an agreement via Resolution 8064 whereby the Contractor agreed to provide emergency debris removal - monitoring services to the City (hereinafter referred to as the "Agreement"). **NOW**, the parties wish to amend the provisions of the Agreement to recognize federal requirements and have entered into this Amendment for that purpose.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement and from other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated by reference herein and made a part hereof.
2. **Amendment.** The parties agree to incorporate the provisions required for Federal Emergency Relief Program debris monitoring agreements as reflected by ATTACHMENT A.
3. **Modification.** Except as specifically modified by this Amendment, all terms and conditions of the prior agreement shall continue in full force and effect as originally executed. Nothing herein shall be deemed or construed to amend or modify any other contract or undertaking between the City and Contractor other than as defined above.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement for professional services.

CITY OF LEESBURG, FLORIDA

By: _____
Mayor

Attest: _____
City Clerk

Approved
As To Form: _____
City Attorney

"POST, BUCKLEY, SCHUH, & JERNIGAN"

By: Steven N. Glenn
Steven N. Glenn

Its: Associate Vice President

Date: 4/29/10

Attachment A

REQUIRED FEDERAL PROVISIONS FOR EMERGENCY RELIEF PROGRAM DEBRIS MONITORING AGREEMENTS

1.0 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. If FHWA or the Department of Transportation determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Agency shall notify the Contractor in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, funds may be withheld until compliance is obtained. Where non-compliance is not correctable, the Agency may deny participation in parcel or project costs in part or in total.

2.0 Records:

2.1 Establishment of Maintenance of Accounting Records: Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Agency at all times during the period of this Agreement and for five (5) years after the Department of Transportation has closed out an Emergency Event with the Florida Division of Emergency Management. Records of costs incurred include the Contractor's general accounting records and the project records, together with supporting documents and records, of all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department of Transportation for a proper audit of costs.

2.2 Documentation of Project Costs: All costs charged to the project shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, and any other documentation evidencing in proper detail the nature and propriety of the charges.

2.3 Inspection: The Contractor, the Agency and Department authorized representatives shall permit authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project. The Agency reserves the right to unilaterally cancel this Agreement for refusal by the contractor, sub-contractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1) (c), Florida Statutes).

3.0 Disadvantaged Business Enterprise (DBE) Policy and Obligation: It is the policy of the Agency that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Emergency Relief Program funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Contractor agrees to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all Contractors shall take all necessary and reasonable steps in accordance with

applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Contractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Contractor agrees that each contract signed with a recipient subcontractor must include the following assurance: "Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Subcontractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the Subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate."

4.0 Restrictions, Prohibitions, Controls, and Labor Provisions:

4.1 Equal Employment Opportunity: In connection with the carrying out of the project, the Contractor shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4.2 Title VI - Civil Rights Act of 1964: The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Contractor pursuant thereto. The Contractor shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

4.3 Americans with Disabilities Act of 1990 (ADA): The Contractor will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder.

4.4 Restrictions on Lobbying: The Contractor agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Contractor, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or any employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally-appropriated funds have been paid by the Contractor to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or any employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

5.0 Equal Employment Opportunity: The contractor will ensure compliance with all requirements of Equal Employment Opportunity (EEO) as set forth under law, executive order, rules, regulation (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the U.S. Secretary of Labor and imposed pursuant to 23 U.S.C. 140.

6.0 Americans with Disabilities Act of 1990 (ADA): The contractor will ensure compliance with all requirements imposed by the ADA, and regulations of the federal government issued thereunder.

7.0 Convict Labor: Ensure compliance with the Convict Labor prohibition in 23 U.S.C. 114 whereby Convict Labor cannot be used in Emergency Relief Programs subject to FHWA funding.

8.0 Suspended and Debarred Contractors: FHWA and FEMA prohibit contracts with debarred contractors. Recipients of Federal funds are prohibited from doing business with contractors who have been suspended or debarred. Contractors debarred, suspended, or proposed for debarment are excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors. Contractor awardees shall ensure they solicit offers from, award contracts to, and consent to subcontracts with responsible contractors only.