

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting on behalf of the Department of Public Safety (the "State") and Ceres Environmental Services, Inc, with a principal place of business in Sarasota, FL (the "Contractor") that the contract between them originally dated as of January 1, 2023, Contract # 45120, as amended to date, (the "Contract") is hereby amended as follows:

I. **Attachment A, Scope of Services.** The scope of services is amended as follows:

Section 1.5 of Attachment A is amended by the addition of the following requirements:

1.5.41. Contractor shall remove debris from waterways (i.e., rivers, streams, canals, bayous, lakes, bays, ditches, etc.) in emergency and non-emergency projects and must follow the requirements set forth in required permits and guidance from the local, State, or federal funding agency. Debris may be removed either through land-based methods or marine-based operations and may consist of vegetation, C&D, white goods, e-waste, vehicles, vessels, and other eligible debris types. The State intends to seek reimbursement from FEMA's Public Assistance Program and/or funding from NRCS' Emergency Watershed Protection Program.

Assessment of Impacted Waterways

The State and Contractor shall assess the impacted waterways together to determine the type of waterway, impact locations, estimated quantity of debris, method for removal, potential points of access, and debris staging or disposal locations. When authorized by the State, Ceres Contractor shall compile all data into an assessment report and provide it to the State for review and submittal either to FEMA for waiver approval to the Public Assistance Program or to NRCS for funding through the NRCS Emergency Watershed Protection Program.

Land-based Waterway Debris Removal

Contractor shall remove debris from designated waterways while working from the bank of the waterway (land-based). Land-based methods may include long-reach excavators, skidders, skid steers, laborers and other equipment pieces and personnel to remove debris from the waterways to a localized staging area. Once staged at the localized staging area, haul trucks shall load and haul waterway debris to either a temporary debris management site or lawfully final disposal location.

Marine-based Waterway Debris Removal

Contractor shall remove debris from designated waterways while working on the water (marine-based). Marine-based methods may include barges with excavator, spud barge, fast-picker barge and other equipment pieces and personnel to remove debris while on the water to a localized staging area. Once staged at the localized staging area, haul trucks shall load and haul waterway debris to either a temporary debris management site or lawfully final disposal location.

Points of Access (POA)

The State, or local government, is responsible for identifying and securing various points of access (POA) to remove debris from the impacted waterways through Right-of-Entry Agreements. Contractor shall support the State, or local government, to determine the most suitable POAs for efficient waterway debris removal operations. During waterway debris removal operations, Contractor is responsible for general maintenance and upkeep while utilizing the site and, upon completion, shall restore the POA in accordance with the ROE Agreement.

FEMA Public Assistance Program – Reimbursement Program

Overview

FEMA's Public Assistance Program and Policy Guide highlights the eligibility requirements for waterway debris removal. The State prefers the use of Public Assistance dollars because of the immediacy of the work performance (oftentimes shortly after the disaster) and the larger cost share associated with project costs (75% federal cost share normally). However, the State, or local government, must have strong documentation to demonstrate the need for waterway debris removal funded under the Public Assistance Program (FEMA does not pay for assessment after an event, only verification). For the State of Vermont as the example, the State should pull the 5-year floodplain maps and review the debris quantities along streams and rivers within that 5-year floodplain shortly after any event. Given all this, the State must demonstrate how the debris could cause a threat to "improved public or private property during the occurrence of a 5-year flood." In its most basic terms, the 5-year floodplain maps set the Contractor's boundaries for any assessment and debris project.

FEMA Public Assistance Program and Policy Guide, Excerpt from Page 103-105

Debris removal from waterways that is necessary to eliminate the immediate threat to life, public health and safety, or improved property is eligible. Removal of debris in a waterway that does not meet this criterion is ineligible, even if the debris is deposited by the incident.

The EPA and U.S. Coast Guard (USCG) have the specific authority to remove hazardous materials, as described in the previous section. EPA is responsible for removing such material from inland water zones and USCG is responsible for coastal water zones. Debris removal from waterways usually requires coordination with the U.S. Army Corps of Engineers (USACE) for the use of a Nationwide permit and with the National Marine Fishery Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) to ensure compliance with Section 7 of the Endangered Species Act (ESA).

1. Navigable Waterways

If the Applicant has legal responsibility for maintenance of a navigable waterway, removal and disposal of debris that obstructs the passage of vessels is eligible to a maximum depth of 2 feet below the low-tide draft of the largest vessel that utilized the waterway prior to the incident. Any debris below this zone is ineligible unless it is necessary to remove debris extending upward into an eligible zone.

If a tree is still rooted to an embankment and is floating or submerged, the cost to cut the tree at the water's edge is eligible.

Debris removal from federally maintained navigable waterways is ineligible. USCG and the USACE have specific authorities for removal of hazardous substances, vessels, and other obstructions from federally maintained navigable waterways.

2. Non-navigable Waterways, Including Flood Control Works and Natural Waterways

Debris deposited by the incident may obstruct a natural waterway (that is, a waterway that is not improved or maintained) or a constructed channel, including flood control works. In these cases, removal of the debris from the channel is eligible if the debris poses an immediate threat, such as when the debris:

- Obstructs, or could obstruct, intake structures.
- Could cause damage to structures, such as bridges and culverts; or
- Is causing, or could cause, flooding to improved public or private property during the occurrence of a 5-year flood.

Removal of the obstruction is eligible in **streams** where debris removal might also be eligible under the NRCS Emergency Watershed Protection Program (EWP)219 unless NRCS provides assistance for the debris removal. However, FEMA, the Recipient, and the Applicant need to coordinate with NRCS first to ensure that any work performed does not jeopardize other assistance that may be eligible under the EWP.

Debris removal from **flood control works** that are under the specific authority of NRCS is ineligible for PA funding, even if NRCS does not have sufficient funding or does not provide assistance. Flood control works under the specific authority of NRCS are those that are part of the WFPO Program under PL 83-566.220.

For flood control works that are eligible for the USACE Rehabilitation and Inspection Program (RIP),221 debris removal is eligible for PA funding. USACE does not reimburse Applicants for debris removal but conducts this activity directly when necessary.

3. Identifying Debris Impact Locations

The Applicant is responsible for identifying debris deposited by the incident that poses an immediate threat. Random surveys to look for debris, including surveys performed using side scan sonar, are ineligible. However, if the Applicant identifies an area of debris impacts and demonstrates the need for a survey to identify specific immediate threat, FEMA may provide PA funding for the survey in that location, including the use of side scan sonar.

NRCS Emergency Watershed Protection Program

The EWP Program is a recovery effort aimed at relieving imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences. All projects

undertaken, except for the purchase of floodplain easements, must have a project sponsor. NRCS may bear up to 75 percent of the construction cost of emergency measures (90 percent within limited-resource areas as identified by the U.S. Census data). The remaining costs must come from local sources and can be in the form of cash or in-kind services. Funding for the program is provided through congressional appropriations.

Types of Work Authorized

EWP is designed for installation of recovery measures to safeguard lives and property because of a natural disaster. Threats that the EWP Program addresses are termed watershed impairments. These include, but are not limited to:

- debris-clogged stream channels,
- undermined and unstable streambanks,
- jeopardized water control structures and public infrastructures,
- wind-borne debris removal, and
- damaged upland sites stripped of protective vegetation by fire or drought.

The program can include purchasing floodplain easements. These easements restore, protect, maintain, and enhance the functions and values of the floodplain, including associated wetlands and riparian areas. They also conserve natural values including fish and wildlife habitat, water quality, flood water retention and ground water recharge, as well as safeguard lives and property from floods, drought, and the results of erosion.

EWP work is not limited to any one set of prescribed measures. NRCS completes a Damage Survey Report which provides a case-by-case investigation of the work necessary to repair or protect a site. NRCS will only provide funding for work that is necessary to reduce applicable threats. Should sponsors want to increase the level of protection, the sponsor will be responsible for paying 100 percent of the costs of the upgrade and additional work.

II. **Exhibit A: Price Schedule:** The Price Schedule is amended as follows:

Lines 1 and 2 of Exhibit A: Price Schedule are amended by the addition of the following requirements:

| Line-Item No. | Description | UOM | Price |
|---------------|-----------------------------|-------------|----------|
| 1A | Land-based Debris Removal | Cubic Yard | \$44.55 |
| 1B | | Linear Foot | \$28.75 |
| 2A | Marine-based Debris Removal | Cubic Yard | \$115.90 |
| 2B | | Linear Foot | \$41.20 |

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

This document consists of 6 pages. Except as modified by this Amendment No. 2, all provisions of the Contract remain in full force and effect.

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Contract # 45120
Amendment # 2

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

By: DocuSigned by:
Jennifer M. V. Fitch
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Name: Jennifer M.V. Fitch
Commissioner - Buildings and
Title: General Services
Date: 1/23/2024

CERES ENVIRONMENTAL SERVICES, INC

By: Tia Laurie

Name: Tia Laurie
Title: Corporate Secretary
Date: January 22, 2024