

EMERGENCY DEBRIS REMOVAL AND DISPOSAL SERVICES AGREEMENT

OWNER: MARSHALL COUNTY, KENTUCKY

CONTRACTOR: LOOKS GREAT SERVICES OF MS, INC.

PROJECT NO: TBD

**EMERGENCY DEBRIS REMOVAL AND DISPOSAL SERVICES AGREEMENT
BETWEEN MARSHALL COUNTY, KY AND LOOKS GREAT SERVICES OF MS, INC.**

This **EMERGENCY DEBRIS REMOVAL AND DISPOSAL AGREEMENT** is made and entered into on this ____ the day of December, 2021, by and between MARSHALL COUNTY, KENTUCKY, a governmental subdivision of the State of Kentucky, by and through the County (hereinafter referred to as "the Owner") and Looks Great Services of MS, Inc., a Mississippi corporation (hereinafter referred to as "LGS"), hereinafter the "Parties":

WHEREAS, the Owner issued, on December 15, 2021, a solicitation for proposals for Emergency Debris Removal and Disposal Services ("Solicitation"), in order to remove and properly dispose of debris generated from a tornado event which occurred in Marshall County, KY in February 2021 (the "Project"); and

WHEREAS, LGS submitted the successful and best proposal offered pursuant to the Solicitation; and

WHEREAS, the Owner formally awarded the Project to LGS on December 16, 2021:

NOW, THEREFORE, it is agreed by and between the Parties, that in consideration of the covenants contained herein, and as set forth in the Solicitation, the Parties agree as follows:

ARTICLE 1 - EFFECTIVE DATE/ TERM

The effective date of this AGREEMENT shall be the date of LGS's execution hereof.

The term of this Agreement shall be for a one-year period ("Term"), unless otherwise terminated as provided herein. The Term of this Agreement may be extended for an additional period of time, only upon such terms and conditions as may be mutually agreed upon in a written addendum signed between the Parties.

ARTICLE 2 - SERVICES TO BE PERFORMED BY LGS

21 Scope of Work. Attached hereto as **Exhibit A** and made a part hereof, the same as if copied in full herein, is a copy of the Scope of Work for Debris Removal Related to December 2021 tornado event in Marshall County, KY. Each provision of Exhibit A is incorporated by reference in this Agreement as fully and effectually as if copied in full herein. LGS specifically acknowledges that it is fully aware and shall comply with all obligations, responsibilities, and liabilities imposed upon it as the successful proposer. Services authorized by the Owner shall be referred to as "Task Orders." The performance requirements set forth in the Solicitation shall apply to the work ordered by the Owner.

22 Clarification of Roadway Repair Obligations. Owner understands and agrees that existing wear, cracks or other deficiencies in roadways used during the Project may worsen or increase as

a result of heavy equipment used by LGS to perform the work contemplated in this Agreement. Notwithstanding any contrary provisions in this Agreement, including but not limited to those in the Scope of Work, the Parties agree that LGS shall have no obligation to repair, replace or otherwise remediate Owner's streets or roadways, including those to which the Owner has obtained access rights, as a result of such normal and expected wear and tear associated with debris removal and disposal operations. Notwithstanding the language set forth in this Paragraph 2.2, LGS shall be responsible for all costs necessary to repair damage, but not to upgrade, county property, including Owner's streets, roadways, or other county owned property whether within its Rights of Way or not, that may be caused by the negligence, lack of due care or recklessness of LGS or any of its employees, agents, contractors, subcontractors.

2.3 DBE Firms. LGS and all subcontractors shall take all necessary and reasonable steps to ensure that disadvantaged business enterprise firms can compete for and participate in the performance of a portion of the work in this contract and shall not discriminate on the basis of race, color, national origin, religion, or sex.

ARTICLE 3 - COMPENSATION

3.1 Rates. Attached hereto as **Exhibit A** and made a part hereof, the same as if copied in full herein, is LGS's Fee Proposal Schedule. LGS shall receive for its services as may be specifically authorized by the Owner the fees set forth on Exhibit A.

3.2 Timing of Payment. Owner shall remit payment unto LGS in accordance with the Fee Schedule (Exhibit B). LGS may submit weekly or semi-monthly invoices for services rendered hereunder. Invoices must reference the Task Order Number. Invoices shall include a statement of progress and appropriate audit quality detail in order to fully comply with requirements of any Federal or state agency in order to ensure reimbursement to the Owner of the cost associated with this Agreement by Federal and state agencies. Federal and state agencies referred to herein include the Federal Emergency Management Agency (FEMA) and the Kentucky Emergency Management (KYEM). LGS shall be paid not later than 45 days after LGS's invoice for work performed is submitted to the Owner by the Monitor. Upon request from LGS, the Owner shall promptly address with the Monitor any delays or other issues associated with the Monitor's timely review, approval, and/ or submission to Owner of LGS's invoices.

3.3 No Reimbursement Contingency. **The Parties understand and agree that payment of LGS by the Owner shall not be contingent upon the Owner being reimbursed by any Federal or state agency.** Payment to LGS shall be made for any work directed by the Owner, even that which may be determined by Federal and State agencies to be ineligible for reimbursement.

3.4 Invoicing. Each individual invoice shall be due and payable not later than forty-five (45) days after receipt by the Owner of correct, fully documented invoices. All invoices shall be delivered to:

Kevin Neal, Executive
Marshall County, Kentucky
1101 Main Street
Benton, KY 42025

In order for both Parties herein to close their books and records, LGS will clearly state "Final Invoice" on LGS's final/last billing to the Owner. This certifies that all services have been properly performed by LGS and all charges and costs have been invoiced to the Owner.

3.5 Certification. Contractor shall include certification of payment to subcontractors and certified payroll for their employees with each invoice.

ARTICLE 4 - THE OWNER'S RESPONSIBILITIES

4.1 Access and Information. The Owner shall be responsible for providing access to all Project sites, and timely providing information required or requested by LGS during the course of the Project.

4.2 Monitors. Prior to issuance of notice to proceed to LGS, Owner shall retain a competent and experienced monitoring company ("Monitor") to perform all monitoring services referenced in Exhibit A. The Owner shall ensure that such Monitor supply sufficient numbers of employees to perform the required monitoring services and avoid delays and interruptions to LGS's work. The Owner shall extend LGS's time of performance and reimburse LGS for any increased costs arising from delays or interruptions caused by the Owner's Monitor. The Parties understand and agree that the Monitor shall have no authority to direct LGS's work on this Project and that LGS shall control its means and methods for the performance of such work.

4.3 Authority to Direct Work. The Owner understands and agrees it is important for LGS to receive any and all Project directives, changes, guidance and other scope-related correspondence (collectively "Directives") from authorized representatives of the Owner. As such, the Owner designates the below listed individuals as Owner representatives authorized to issue Directives to LGS on the Owner's behalf. In the event any additional Owner representatives are designated for this Project, the Owner shall promptly notify LGS of such designation(s) in writing.

Owner-designated representative:

Kevin Neal by email at kevin.neal@marshallcountyky.gov
Roy Wadkins by email at roy.wadkins@marshallcountyky.gov

ARTICLE 5 - TERMINATION OF AGREEMENT

This Agreement may be terminated by either party for cause in case of: (i) breach of a material term or condition of this Agreement, specifically including but not limited to Owner's obligation to timely pay LGS for work performed during the Project; (ii) LGS's failure to correct any defect within a reasonable time after receiving written notice thereof; or (iii) upon the bankruptcy, liquidation, or dissolution of LGS. Any termination for cause must be preceded by a written notice detailing the basis for default and provide the defaulting party ten (10) days in which to cure the default.

Notwithstanding the foregoing or any other provisions of the Agreement, this Agreement may be terminated by Owner at any time for the convenience of the Owner without cause. The Owner agrees to pay LGS for all work completed through the termination date, as well as reasonable demobilization costs.

ARTICLE 6 - UNCONTROLLABLE FORCES (FORCE MAJURE)

Neither the Owner nor LGS shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to uncontrollable forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "uncontrollable forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party. It includes, but is not limited to, fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, governmental actions, and acts of God.

Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

ARTICLE 7 - GOVERNING LAW AND VENUE

The laws of the State of Kentucky shall govern this Agreement. Any and all legal action necessary to enforce the Agreement will be held in Benton, Kentucky and the Agreement will be interpreted according to the laws of the State of Kentucky.

ARTICLE 8 - NOTICE

Any Notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid, or overnight delivery carrier as follows:

As to the County: Marshall County, Kentucky

Attn: Kevin Neal, Executive

Address: 1101 Main Street, Benton, KY 42025

With a copy to: Jason Darnall, via email to j.darnall15@gmail.com

As To LGS: **Looks Great Services of MS, Inc.**
Attn: Kristian Agolia
1501 Highway 13 North
Columbia, MS 39429

Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when received; however, facsimile transmissions received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of LGS and the Owner.

ARTICLE 9 ENTIRE AGREEMENT

- 9.1 Documents Governing the Parties' Obligations. The Parties' Agreement shall consist of:
- i. This Emergency Debris Removal and Disposal Agreement;
 - ii. **Exhibit A** –Scope of Work and Fee Proposal for the December 2021 Tornado in Marshall County, KY comprising all the terms, conditions and specifications within the Solicitation entitled “Emergency Debris Removal and Disposal Services” published by the Owner on December 15, 2021 for the work as attached hereto as Exhibit “A”;

The documents identified in Section 9.1(i) and (ii) collectively embody the entire Agreement of the Parties and supersede all prior and contemporaneous negotiations, quotations, correspondence, agreements and understandings relating to the subject matter hereof.

9.2 Conflicts. In the event of any conflicts or ambiguities between foregoing documents identified in Section 9.1(i) or (ii), the terms of this Emergency Debris Removal and Disposal Agreement shall control.

9.3 Amendments and Waiver. This Agreement may be amended only by a writing executed by each of the Parties. No action or failure to act by either party shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act

constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing by a duly authorized officer of the waiving party.


9.4 Assignment. This agreement shall not be assigned by either party, in whole or in part, without the express written consent of the other party.

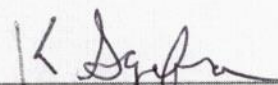
IN WITNESS WHEREOF, Marshall County, Kentucky and LGS have executed this AGREEMENT as of the day and year first above written.

OWNER:

MARSHALL COUNTY, KENTUCKY


LOOKS GREAT SERVICES OF MS, INC.

By: 
Kevin Neal, Executive

By: 
Kristian Agoglia, Vice President

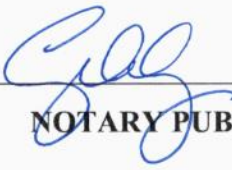
ATTEST:

Effective Date: 12-17-21

By: 
Tim York, County Clerk

STATE OF KENTUCKY)
)
COUNTY OF MARSHALL)

PERSONALLY APPEARED before me, the undersigned authority in and for the said county and state, on this 17th day of December, 2021, within my jurisdiction, the within named, Kevin Neal and Tim York, who acknowledged to me that they are the Executive and County Clerk, respectively, of Marshall County, Kentucky, a governmental subdivision of the State of Kentucky, and that in said representative capacity, they executed the above and foregoing instrument, after first having been duly authorized so to do.



NOTARY PUBLIC

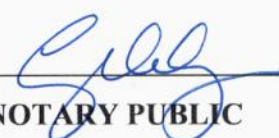
My commission expires:
#626558 July 8, 2023

(SEAL)



STATE OF MISSISSIPPI)
)
COUNTY OF MARION)

PERSONALLY APPEARED before me, the undersigned authority in and for the said county and state, on this 17th day of December, 2021, within my jurisdiction, the within named, **KRISTIAN AGOGLIA**, who acknowledged to me that he is Vice President of Looks Great Services of MS, Inc., a Mississippi corporation, and that for and on behalf of the said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.



NOTARY PUBLIC

My commission expires:

626558 July 8, 2023

(SEAL)

