ANNUAL AGREEMENT FOR
DEBRIS MONITORING AND RECOVERY SERVICES

THIS AGREEMENT (the "Agreement"), is entered into this 4th day of December, 2013 by and between Town of Nags Head, existing under the laws of the State of North Carolina, hereinafter referred to as the "Town" and O'Brien's Response Management, LLC, hereinafter referred to as the "Contractor", for the term specified herein, agree as follows:

I. SCOPE

The Contractor is to perform the work as defined in the "Request for Proposal" and amendments, if any, the Request for Proposal is hereby incorporated by reference herein and made a part thereof as fully as if herein set forth.

Unless otherwise specified herein, the Contractor is to furnish all materials, tools, equipment, manpower, and consumables to complete the work.

The Contractor's response to the recovery process must be immediate, rapid, and efficient, with acceptable cost controls, accountability procedures, with written reports and submittals in place, to assure that the Town will have the means to be reimbursed for all eligible disaster recovery costs from appropriate Federal and State agencies.

II. ORDER OF PRECEDENCE

For the resolution and interpretation of any inconsistencies in this Agreement and/or the documents attached hereto and included herein by this reference, the precedence of these documents shall be given in the following order:

1. This Agreement with any Attachments, including Addendum(s) and Amendment(s) hereto;
2. If applicable, negotiated Amendments or clarification to the Contractor's Proposal which have been incorporated by reference into the final Agreement;
3. Town 's Request for Proposal;
4. That certain Memorandum of Understanding entered into between the Contractor and Town dated May 23, 2013.
5. Contractor's Proposal to the Town's Request for Proposal ("Contractor's Proposal")

III. TERM OF AGREEMENT

The period of this Agreement shall be for one (1) year, beginning on or before July 1, 2013, and ending on June 30, 2014. This Agreement may be extended annually, upon agreement. for an additional one (1) year period.

IV. COMPENSATION

The Contractor agrees to provide services and materials as specified in the Contractor's Proposal to the Town 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 perform all Services under this Agreement at the cost specified in said proposal and amendments, if any; the Contractor's Proposal and any amendments thereto are incorporated by reference herein and made a part hereof as if fully herein set forth.

Compensation for services that are not Disaster Debris Monitoring Services is not part of this Agreement and may be negotiated as a time and materials, not to exceed, price basis on a per-project basis, on each individual Task Order. Invoices must reference the Task Order number.

Prior written approval for any work/cost increase must be obtained from the Town before becoming effective. Authorization for such increases, if approved by the Town, shall be accomplished by execution of a change order. No such increased work or work at increased cost shall be performed prior to the execution of said change order.

V. PAYMENT

All invoices received by the Town are payable within THIRTY (30) days from receipt, provided they have first been approved by the Town and the Town has accepted the work.

All invoices shall be directed to:
Town of Nags Head
Attn: Kim Kenny
P.O. Box 99
Nags Head, NC 27959

VI. GENERAL CONDITIONS

A. Termination

- This Agreement and the performance of work under this Agreement may be terminated immediately by the Town in whole or in part, in writing, whenever the Town shall determine that the Contractor has failed to meet the performance requirements of this Agreement or at the convenience of the Town for any reason or no reason.

- The Town has the right to terminate for default if the Contractor fails to make delivery of the supplies, perform the work, or if the Contractor fails to perform any other provisions of the Agreement.

B. Performance Requirements and Services

- The Contractor shall provide: constant and consistent documented inspections of the debris removal work being done for the Town under a contract for disaster generated debris removal; communications to the Town of any and all incorrect applications of guidance as specified by FEMA publication 325 or the Stafford Act; and documentation of the debris removal process that withstands all local, State, and Federal audits.

- The Contractor shall provide written daily reports denoting areas worked, quantities of debris removed, quantity of equipment in service, quantity of monitors in service, weather report, problems and issues noted, problems and issues corrected. On a weekly basis, the Town will identify to both the debris removal contractor and the Contractor strategic targets for the following week and an evaluation of compliance of last week's targets, and accounting protocols to include a bi monthly reconciliation of records with the Town, debris removal contractor, and Contractor so that errors and omissions are handled expediently and that the quality of the accounting is established and reviewed.

- The Contractor shall perform work so as not to interfere with the normal operations of the Town or other government entities or functions and so as not to violate applicable regulations or laws.

- The Contractor shall develop and have in place planning and training standards which shall be consistent with the Town Comprehensive Emergency Operations Plan, and applicable State and Federal programs and plans. All plans and training will be conducted in compliance with the National Incident Management System (NIMS).

- As security for faithful performance of this Agreement; simultaneously within six days of delivery of the executed Agreement, the successful bidder shall furnish the Town an executed bond in the amount of one hundred (100%) of the Agreement amount as security for faithful performance of the Agreement in accordance with the plans, specifications, and conditions of the Agreement.

  A payment bond in the amount of one hundred percent (100%) of the Agreement amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable.

  The performance bond and the payment bond shall be provided by the Contractor and executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall come effective upon the execution of the contract. In advance of the execution of the Contract, the Contractor shall provide a notarized Letter of Good Standing from its Surety Company confirming that the Contractor is bondable.

C. Indemnification and Insurance

1. Indemnity

The Contractor hereby agrees to indemnify and hold harmless the Town, its officers, agents, and employees, from and against any and all liability, claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and costs of actions, including attorney's fees for trial and on appeal, and for the preparation of same arising out of the Contractor's, its officers', agents', subcontractors, and employees' acts or omissions associated with this Agreement or the performance of work under this Agreement.

Neither party shall be liable for, and each party expressly waives and releases the other party from, and against, any and all special, punitive, exemplary, or consequential damages.

2. Insurance Requirements

The Contractor, at its own expense, shall keep in force and at all times maintain during this Agreement:

(a.) Commercial General Liability Insurance
Commercial General Liability Insurance, issued by responsible insurance companies and in a form acceptable to the Town, protecting and insuring against all the foregoing with coverage limits of not less than One Million Dollars ($1,000,000) per occurrence for Bodily Injury and Property Damage.

Automobile Liability Insurance

Automobile Liability coverage shall be in the minimum amount of One Million Dollars ($1,000,000) per occurrence.

(b.) Workers' Compensation Coverage
Full and complete Workers' Compensation Coverage, as required by North Carolina state law, shall be provided.

(c.) Insurance Certificates
Following the notice of award, the Contractor shall provide the Town with certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the Town. Said Commercial General Liability policy shall provide that the Town be an additional named insured. The Town shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued

by responsible companies who are acceptable to the Town and licensed and authorized to do business under the laws of North Carolina.

Acceptance of Work

The Town will be deemed to have accepted the work after the Contractor is notified by the Town Manager or his designee of its satisfaction that the work is completed.

Correction of Work

The Contractor shall promptly correct all work rejected by the Town as failing to conform to this Agreement. The Contractor shall bear all costs of correcting such rejected work or work that was not authorized by the Town representative. Rejected work shall consist of, but not be limited to, work which is deemed FEMA ineligible or ineligible by the Town's representative.

D. Right to Audit Records

The Town shall be entitled to audit the books and records of the Contractor or any sub-contractor to the extent that such books and records relate to the performance of this Agreement of any sub-contract to this Agreement. **(Such books and records shall be maintained by the Contractor for a period of three (3) years from the date of final payment under this Agreement.)**

E. Time is of the Essence

The parties agree that time is of the essence in the completion of the work called for under this Agreement. The Contractor agrees that all work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

VII. SPECIFIC PROVISIONS

A. The Contract shall, pursuant to this Agreement, provide the Town with professional debris removal contract monitoring to assist the Town through debris removal following a debris generating event such as a hurricane, storm, or other event which also requires debris management expertise. The function of the contract monitors is to ensure compliance, assuring reimbursement in accordance with FEMA 325, dated July 2007, or a more current edition.

B. The Town shall furnish all information and documents necessary for the commencement of contracted services, to include a valid written "Notice To Proceed", and services under this Agreement shall not begin until the issuance of such Notice to Proceed. Said Notice To Proceed shall contain a time limit as to when the Contractor shall complete the applicable work, and shall contain a "not to exceed" total price for services to be performed pursuant to this Agreement. A representative

will be designated by the Town of Nags Head to be the primary point of contact for answering any questions prior to and after activation of this Agreement via a written "Notice To Proceed". The Contractor must have a representative present in the Town's office or Emergency Operations Center within twenty-four (24) hours of Notification to Proceed and be able to mobilize equipment and personnel to the designated location within forty-eight (48) hours of Notice to Proceed. If necessary, the Contractor may need to pre-stage in the region. The Contractor will provide an adequate number of professionals and qualified personnel to monitor all debris loading sites and debris management sites along with associated roving debris monitors. The Contractor will be required to increase its staffing from this point depending on the severity of the debris generating event. At the discretion of the Town, the Contractor may be required to replace any debris monitor.

The Contractor will provide all debris monitors with appropriate personal protective equipment to include, but not be limited to, eye protection, hearing protection, safety shores, safety vests, hard hats, and wet and cold weather clothing, to comply with all federal, state and local requirements.

The Contractor will provide debris monitors with the means to communicate (cell phones, satellite phones, radio, etc.) with their supervisors or the Town as may be necessary. Contractor supervisors are responsible for resolving issues with truck drivers and contractor's personnel.

The Contractor will provide temporary office space and temporary sanitary facilities as necessary.

C. To the extent possible, the Contractor shall use qualified local sub-contractors to perform work to be performed under this Agreement and that is subcontracted out.

D. LOADING SITE MONITORING SERVICES

The primary function of the "Loading Site Monitors" is to issue correctly completed debris load tickets for FEMA eligible debris cleared and removed at locations designated by the Town.

Contractor will, within 48 hours, be prepared to provide qualified on site personnel to monitor debris removal operations at up to three (3) debris loading sites located throughout the Town. Additional sites may be added as debris removal efforts increase. Each loading site will operate, at a minimum, approximately 12 -14 hours per day, 7 days per week. Exact number and location of loading sites will be determined by the Town in coordination with the debris removal Contractor.

Monitoring Sites: Contractor may have Loading Site Monitors stationed at designated "Control Points" chosen by the debris removal Contractor and coordinated with the Town the day before beginning the work. The "Control Points" must be kept to a minimum and be located at a safe site along the primary haul road to the designated debris management site. The Contractor must be prepared to provide a minimum of two Loading Site Monitors to be stationed at each "Control Point." Each truck driver

will be given a load ticket that validates where the material originated and that it is eligible for pickup. Load tickets will be issued in accordance with established procedures and as a minimum must contain either a street address or the nearest intersection to be valid. The volume of debris hauled will be estimated at the debris management site by the Debris Management Site Monitor.

Contractor shall provide all management, supervision, labor, transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to initiate debris load tickets to document the removal of FEMA eligible debris from public access roadways, public rights-of-way, and public property within the Town.

Contractor must be prepared to provide a minimum of two Loading Site Monitors per site per day at a minimum of a 12-14 hour shift. Contractor must provide personnel with transportation to and from the loading site(s), mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, and all logistic support.

All Loading Site Monitors must speak English, be a minimum of 18 years of age and have a valid driver's license issued in the United States and be capable of working in an outside environment and able to climb a 10 foot ladder. Previous or similar monitoring or inspection experience is required of all management staff.

Supervisors and all identified Loading Site Monitors must attend a 1/2 day debris monitor training session to be conducted at a location specified by the Debris Manager before the start of the first shift. Training will be the responsibility of the Contractor and must be approved by the Town.

E. DEBRIS MANAGEMENT SITE (TDSR's) MONITORING SERVICES (As Required)

The primary function of the Debris Management Site Monitors is to complete the load ticket and estimate volumes that have been transported to the debris management site for processing, storage, and disposal and to report safety violations occurring at the debris management site.

Contractor must provide Debris Management Site Monitors with transportation to and from the debris management sites and mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, logistic support, and all safety equipment, digital cameras, video cameras, and other equipment necessary to safely perform the site monitoring functions.

Supervisors must have previous debris monitoring experience.

All identified Debris Management Site Monitors and Supervisors must attend a debris monitor training session which covers the deliverables and expectations which will be conducted at a location specified by the Debris Manager before the start of the first

shift. Training will be the responsibility of the Contractor and must be approved by the Town.

F. ROVING DEBRIS MONITOR SERVICES (As required)

The function of the Roving Debris Monitors is to verify that only FEMA eligible debris is being removed from designated public rights-of-way and public property within assigned debris pickup zones in the Town.

Contractor shall provide at least one monitor for each debris pickup zone to monitor and verify FEMA eligible debris removal from designated public access roads within the debris pickup zone. The Roving Debris Monitor(s) must be prepared to operate minimum of 12 to 14 hours per day, 7 days per week.

Contractor must provide Roving Debris Monitors with transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to perform the roving debris monitoring functions.

All identified Debris Management Site Monitors and Supervisors must attend a debris monitor training session which covers the deliverables and expectations which will be conducted at a location specified by the Town before the start of the first shift. Roving monitors shall receive additional training on eligibility issues and procedures required for compliance with the latest version of FEMA 325. Training will be the responsibility of the Contractor and must be approved by the Town.

Contractor shall provide all management, supervision, labor, transportation, and equipment necessary to monitor the operations of the debris removal and disposal Contractor.

G. [reserved]

H. The Contractor shall work with the Town to develop a FEMA approved Debris Management Plan consistent with the Town's Emergency Operations Plan.

I. The Contractor shall operate within the requirements of the Occupational Safety and Health Act, and all other applicable federal and state laws, rules, and regulations.

J. REPORTING

The Loading Site Monitor will turn in their copy of the load ticket to their supervisor at the end of each shift. The Contractor's supervisor will ensure that the load tickets and log are submitted to the Debris Management Center not later than 9 a.m. the following day. Also by 9 a.m. the contractor will provide reports concerning progress in a format designated by the Town.

The Loading Site Monitors will also maintain a log that contains the following information:

a) Debris "Control Point" or loading site location
b) Loading Site Monitors' Name
c) Supervisor's Name
d) Number of Load Tickets issued during the shift
e) Starting load ticket number _____ Ending load ticket number
f) Any problems encountered or anticipated _____

The Debris Management Site Monitor will turn in their copy of the load ticket to their supervisor at the end of each shift. The Contractor's supervisor will ensure that the load tickets and log are submitted to the Debris Management Center not later than 9 a.m. the following day.

The Debris Management Site Monitors will maintain a log that contains the following information:

a) Debris management site location
b) Debris Management Site Monitors' Name
c) Supervisor's Name
d) Truck/trailer number and volume of debris hauled into the site
e) Cumulative total of debris delivered at the site during the shift
f) Any problems encountered or anticipated
g) Grids cleared and number of passes

The Roving Debris Monitor(s) will be responsible for completing the Debris Loading Site Monitoring Checklist provided by the Debris Management Center. Report will be submitted to immediate supervisor on a daily basis.

The Roving Debris Monitor(s) will report any serious or safety related discrepancies observed to their supervisor. Supervisor will keep Town informed of situations that impact the execution of the debris removal contract.

The supervisor will collect all written reports and provide them to the Debris Management Center by 9 a.m. the following day.

The Contractor will provide debris monitors with the means to communicate (cell phone, satellite phones, radio, etc.) to communicate with their supervisor or the Debris Management Center as may be necessary. Contractor supervision is responsible for resolving issues with truck drivers and other contractors' personnel.

The load tickets are to be compiled daily into a daily report that accesses all information gathered on each load ticket, all incorrect or unclear items on any ticket render it invalid until corrected. Corrections must have an initial and date. The original load tickets become the basis of payment to the debris contractor and the combined sum of all tickets become the basis of reimbursement from FEMA and the State and as such, the quality, consistency, accuracy of the individual ticket and the reporting of the data contained upon these tickets and collected by the monitors are the primary deliverable for which the debris removal contract will be let.

K. The Contractor may not hire as a monitor any employee or affiliate of the debris removal contractor.

L. Where applicable, the debris removal contractor shall construct monitoring towers pursuant to the terms of the debris removal contract, which towers shall be used by the monitors to monitor the debris removal operations.

VIII. MISCELLANEOUS PROVISIONS

A. Assignment of this Agreement shall not be made without the advance written consent of the Town.

B. The Contractor shall comply with all applicable federal, state and local laws, ordinances, rules and regulations pertaining to the performance of work under this Agreement.

C. No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the Town.

D. The Contractor is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state and local laws, ordinances, rules, and regulations, for proper execution and completion of the work under this Agreement.

E. This Agreement is deemed to be under and shall be governed by, and construed according to laws of North Carolina.

F. The Town and Contractor shall attempt to resolve conflicts or disputes under this Agreement in a fair and reasonable manner and agree that if an informal resolution cannot be achieved to attempt to mediate the conflict by a professional mediator. If mediation does not settle any dispute or action which arises under this Agreement or which relates in any way to this Agreement or the subject matter of this Agreement within ninety (90) days after either requests mediation, then either party may file such action or actions as it deems appropriate to protect its interests.

G. Any litigation arising out of this Agreement shall be had in the Courts of Dare County, North Carolina.

H. The undersigned hereby certifies that this Agreement is made without prior understanding, agreement or connection with any corporation, firm or person who submitted bids for the work covered by this Agreement and is in all respects fair and without collusion or fraud. As to Contractor, the undersigned hereby warrants and certifies that they are authorized to enter into this Agreement and to execute same on behalf of the Contractor as the act of the said Contractor.

I. This Agreement, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No other agreements, oral or otherwise, regarding the

subject matter of this Agreement shall be deemed to exist or to bind either party hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first written above

TOWN OF NAGS HEAD

By: _____

Date: _____

CONTRACTOR

By: _____, CFO

O'Briens Response Manag LLC
Name of Company

818 Town & Country Blvd
Mailing Address

Houston, TX 77024
Town, State, & Zip

(281) 320-9796
Area Code/Telephone Number

Unless otherwise stated, all official correspondence and contact shall be addressed to:

For the Town :

Town of Nags Head Public Works
c/o David M. Ryan, P.E.
P.O. Box 99
Nags Head, NC 27959
david.ryan@nagsheadnc.gov

For the Contractor:

O'Brien's Response Management, LLC
c/o Oscar Espinosa, Contracts Administrator
818 Town and Country Blvd., Suite 200
Houston, TX 77024
oespinosa@wittobriens.com