

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)	
)	
JEFFERSON COUNTY, ALABAMA,)	CASE NO. 11-05736-TBB
a political subdivision of the State of)	
Alabama,)	Chapter 9
)	
Debtor.)	

**RESPONSE TO JEFFERSON COUNTY’S OBJECTION TO PROOF OF CLAIM
FILED BY CERES ENVIRONMENTAL SERVICES, INC.**

COMES NOW Ceres Environmental Services, Inc. (“Ceres”) a creditor in the above styled bankruptcy case and responds to Jefferson County, Alabama’s (the “County”) Objection to Proof of Claim Number 1349 filed by Ceres as follows:

A. Ceres Did Not Receive Actual Notice of the Claims Bar Date.

1. The dispute over the balance owed to Ceres was pending well before the County sought protection under Chapter 9. Yet, Ceres was not listed as a creditor, despite a claim in excess of \$3 million which would have made Ceres one of the 20 largest unsecured claimants.
2. Troy Garrett, former President of Ceres, had a number of conversations with representatives of the County, who advised him that the debt owed to Ceres would be paid in the ordinary course of the County’s business and would not be considered a part of the Chapter 9 bankruptcy process. Please see Affidavit of Troy Garrett attached hereto as Exhibit “A”.
3. On or about January 12, 2012, James Ward, attorney for Ceres, submitted a Notice



of Claim to Jefferson County Commission in the amount of \$3,741,915.52. This claim was filed and presented pursuant to ALA. CODE (1975) §6-5-20(a) and ALA. CODE (1975) §11-12-5 et seq. Please see copy of Notice of Claim attached hereto as Exhibit “B”.

4. After a number of attempts to resolve the claim directly with the County Commission failed, the County notified Ceres on March 22, 2014 that its claim would need to be handled through the bankruptcy process. However, there was no mention of the Claims Bar Date at that time.
5. It is a fundamental principle of due process that known creditors are entitled to actual notice of a claims bar date before their claims can be extinguished. *City of New York v. New York, N.H. & H.R. Co.*, 344 U.S. 293, 297 (1953); *In re Premier Membership Servs., LLC*, 276 B.R. 709, 713 (Bankr. S.D. Fla. 2002). For that reason, a creditor’s claim is not time-barred unless the creditor receives actual notice of the claims bar date. *In re Yoder*, 758 F.2d 1114, 1121 (6th Cir. 1985); *In re WM. B. Wilson Mfg. Co.*, 59 B.R. 535, 538-40 (Bankr. W.D. Tex. 1986).
6. This is true even where a creditor may have actual knowledge of the pendency of the bankruptcy. *City of New York*, 344 U.S. at 297; *In re Premier Membership Servs., LLC*, 276 B.R. at 713; *In re Dartmoor Homes*, 175 B.R. 659, 670-71 (N.D. Ill 1994) (holding that the “weight of authority leads this Court to conclude that a debtor’s failure to give proper notice to a known but unscheduled creditor is not overcome by the unsecured creditor’s inquiry notice of the bar date”). A creditor’s due process rights are violated where the creditor does not receive actual notice of the claims bar

date and violation of the creditor's constitutional rights is adequate cause for extension of the bar date. *In re W.M. B. Wilson Mfg. Co.*, 59 B.R. at 538-40; *In re Dartmoor Homes*, 175 B.R. at 671.

7. Here, Ceres did not receive actual notice of the claims bar date. Therefore, Ceres' claim is not time-barred and the Court should deny the County's objection to claim and allow the claim as filed.

B. Ceres did comply with the Terms of the Contract and Applicable FEMA policies.

8. The debris removal work performed by Ceres in accordance with its Contract with the County was completed on the County's public rights of way and not on private property.
9. Ceres performed the debris removal work in accordance with applicable FEMA policies and asserts that it was the County's obligation to submit the appropriate documentation to FEMA.
10. Ceres is not aware of any instance where the County made proper application for reimbursement from FEMA for stump payments under the Contract or that the County was denied reimbursement from FEMA.
11. Ceres asserts that the Contract clearly defines activities regarding stump removal and clearly defines the rate of pay by the cubic yard. The Contract further states that the stump removal activities will be paid by line items 19, 20 and 21 regardless of whether or not the stump was extracted. Ceres properly invoiced for the work it performed in accordance with the Contract line items.
12. In paragraph 19 of the County's objection, the County refers to FEMA Disaster

Assistance Policy 9523.11 (“DAP”) for the establishment of a fee structure for Extraction of tree stumps that is contingent upon prior approval by FEMA, the State of Alabama and the County to be eligible for an Extraction fee. However, this argument completely disregards the terms of the contract between Ceres and the County and the provision of the DAP that provides a method for the County to be reimbursed where FEMA did not have an opportunity to inspect the stump.

13. Paragraph 4.3 of the Contract clearly states that the removal and disposal of stumps may be paid on the cubic yard basis, regardless of size or whether or not the stumps require extraction by the contractor. Ceres removed the stumps and disposed the stumps and invoiced for that work on a cubic yard basis as described by the Contract in line items 19, 20 and 21.
14. The County unilaterally decided not to pay over 20% of the invoices, after the work was performed in accordance with the Contract and in accordance with the description of the work provided by Ceres to the County project administrators. This work was performed under the supervision of the County and County monitors took photographs of every stump in accordance with FEMA guidelines and signed every ticket recording the removal of each stump.
15. In response to paragraph 27 of the County’s Objection, Ceres asserts that it did not go on private property to remove any stumps.
16. Ceres did not have a contract with FEMA and payment for the work performed by Ceres was not dependent on approval from FEMA. The County approved the work to be performed by Ceres and the work was properly performed and invoiced by Ceres.

If the County did not request reimbursement from FEMA for work performed and invoiced by Ceres, that was the decision of the County.

17. Prior to the filing of the Objection to Claim, the County did not deny that the stumps were removed by Ceres or that the rates of pay on lines 19, 20 and 21 were not copied correctly onto the Ceres invoice or that the rate of conversion of stump diameters were not correctly converted into cubic yards or that the GPS locations of each stump were not noted on every stump ticket or that every stump ticket was not signed by a County monitor.
18. Ceres admits that the grinding invoice from September 15, 2011 in the amount of \$185,182.98 has been paid, so the Ceres claim is due to be reduced by this amount to \$3,556,732.54.
19. In further support of Ceres' response to the County's Objection, please see the Affidavit of David A. Preus, Vice President of Ceres, attached hereto as Exhibit "C".

Respectfully submitted this the 1st day of August, 2014.

Attorneys for Ceres Environmental Services, Inc.

/s/ James S. Ward
James S. Ward

OF COUNSEL:
WARD & WILSON, LLC
2100 Southbridge Pkwy, Ste 580
Birmingham, AL 35209
(205) 871-5404

/s/ Steven D. Altmann
Steven D. Altmann

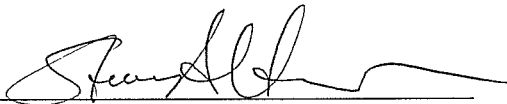
OF COUNSEL:
NAJJAR DENABURG, P.C.
2125 Morris Avenue
Birmingham, Alabama 35203
Telephone: (205) 250-8400

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served this the 15th day of August, 2014 by electronic mail or by placing a copy of same in the United States Mail, postage prepaid, upon the following:

Patrick Darby
Jay Bender
James Bailey
Bradley Arant Boult Cummings, LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203
E mail: pdarby@babbc.com; jbender@babbc.com; jbailey@babbc.com

Carol Sue Nelson
Jefferson County Attorney's Office
280 Jefferson County Courthouse
716 Richard Arrington Jr. Blvd. N.
Birmingham, AL 35203
E mail: nelson@jccal.org; lawsont@jccal.org; smithsha@jccal.org; gaulta@jccal.org



Steven D. Altmann

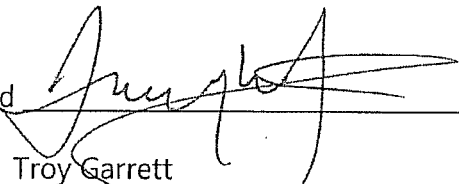
EXHIBIT

A

AFFIDAVIT

This affidavit is regarding work performed by Ceres Environmental Services, Inc. (Ceres) for Jefferson County, Alabama (County) as a result of the tornadoes of April 27, 2011. Ceres responded to a Request for Proposals by the County and subsequently was awarded a contract by the County to perform cleanup and debris management work in the County as well as in several town/cities that joined the County contract.

During the performance of this work and subsequent invoicing and collection attempts, I held the position of President of Ceres Environmental Services, Inc. As the work was performed and confirmed by the County, Ceres then invoiced the County for this work but was not paid for several of the invoices. At that time, I made several trips to Birmingham and had numerous conversations with County representatives regarding the payment for this work. I was told on several occasions by both Commissioner Joe Knight and Commissioner Jimmie Stevens and by County Employee David Hooks, that the debt owed to Ceres by the County would be paid in the normal course of the County's business as an ordinary "trade payable" and that due to the nature of the critical emergency work, the debt would not be considered part of the bankruptcy process.

Signed 
Troy Garrett

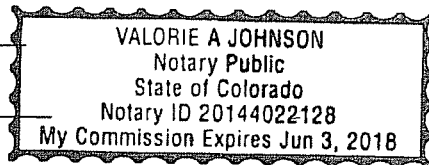
Dated this 1st day of AUGUST, 2014

State of Colorado, County of Denver

Subscribed and sworn to before me this 1st day of August, 2014, by acknowledged that the forgoing affidavit was freely and voluntarily executed by Mr. Troy W. Garrett, whose identity I confirmed.

Notarized by: 

My commission expires: 6/3/18



EXHIBIT

B

WARD & WILSON, LLC

ATTORNEYS AT LAW

2100 SOUTHBRIDGE PARKWAY
SUITE 580
BIRMINGHAM, ALABAMA 35209

JAMES S. WARD

KENNETH JOE WILSON, JR.

— ■ —
(205) 871-5404
FACSIMILE (205) 871-5758

January 12, 2012

VIA HAND DELIVERY

Kenneth Williams,
Risk Manager
Jefferson County Commission
716 Richard Arrington Jr. Blvd. N
Room A-665
Birmingham, Alabama 35203

**RE: Notice of Claim
Ceres Environmental Services, Inc.**

Dear Mr. Williams:

Per our telephone conversation I am enclosing an original and one (1) copy of a Notice of Claim to Jefferson County Commission on behalf of Ceres Environmental Services, Inc.

Please sign where indicated and return the copy via our runner.

Thank you for your assistance and please do not hesitate to contact me in the event you should have any questions.

Very truly yours,
WARD & WILSON, L.L.C.



Deedra Atkisson
Assistant to James S. Ward

\dda

Enclosures

cc: Troy Garrett (via e-mail without enclosures)

NOTICE OF CLAIM TO JEFFERSON COUNTY COMMISSION

PLEASE TAKE NOTICE THAT Ceres Environmental Services, Inc., makes claims against Jefferson County, Alabama, its agents, servants, and employees in the sum of Three Million, Seven Hundred Forty One Thousand, Nine Hundred Fifteen and 52/100 dollars (\$3,741,915.52) for damages.

This claim is filed and presented pursuant to ALA.CODE (1975) § 6-5-20(a) and ALA.CODE (1975) § 11-12-5 et seq. Claimant is a Minnesota Corporation doing business in Jefferson County, Alabama, and suffered damages in Jefferson County.

The claimant has personal knowledge of the facts contained in this claim. The facts set forth below are true and correct to the best of claimant's knowledge, information, and belief. The items or claims presented herein are just, due, and unpaid.

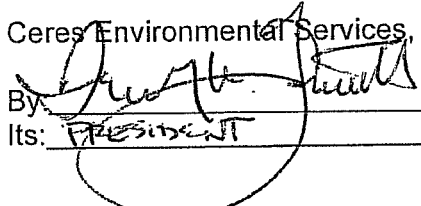
As a basis for this claim, claimant states that on or about June 2011 through September 2011, claimant performed certain debris removal services for Jefferson County pursuant to an agreement by and between claimant and Jefferson County. Moreover and/or in the alternative, Jefferson County owes claimant the referenced amount for work and labor done for Jefferson County by the claimant at Jefferson County's request. Moreover and/or in the alternative, Jefferson County owes claimant the referenced amount pursuant to an open account and/or account stated. A recap of unpaid invoices by date and amount is attached. Payment for said services is due and owing. Jefferson County has failed and/or refused to pay for said services. Said refusal was wrongful and without lawful justification.

The claimants suffered damages as a proximate result of Jefferson County's said failure and/or refusal to pay the sums due. The claimants' damages arise from Jefferson County's refusal to pay for claimant's debris removal services in a timely fashion.

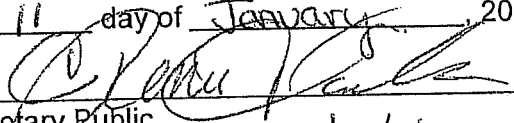
The claimant requests Jefferson County notify it in writing of any person, firm, corporation, or entity who or which Jefferson County alleges shares any responsibility for any of the damages to them.

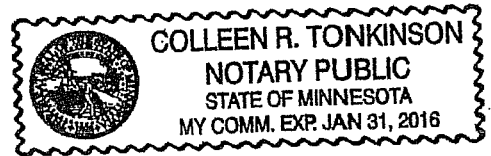
The claimants make known that they will provide such other, further, and different Statement of Claim and supporting documents as Jefferson County so requires of them.

Ceres Environmental Services, Inc.

By:  TROY W. GARRET
Its: PRESIDENT

Sworn to and subscribed before me this
11 day of January, 2012.


Notary Public
Commission Expires 1/31/16



I hereby acknowledge the filing of the above claim this
12th day of JANUARY, 2012.


Clerk, Jefferson County Commission

HUMAN RESOURCES DEPT
COLLEEN R. TONKINSON

2012 JAN 12 PM 2:38

RECEIVED

EXHIBIT

C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In re:)
)
JEFFERSON COUNTY, ALABAMA,) Case No. 11-05736-TBB9
A political subdivision of the State of)
Alabama,) Chapter 9
)
Debtor.)

AFFIDAVIT OF DAVID A. PREUS

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Before the undersigned officer duly authorized to execute oaths, appeared one David A. Preus, who being to the undersigned well known, did hereby state and depose as follows under oath:

1. I am over the age of 18 years and am otherwise competent to give this affidavit.
2. The facts stated in this affidavit are true and correct to the best of my knowledge and belief.
3. I am the Vice-President of Ceres Environmental Services, Inc. and have worked for the company for fifteen years and eleven months. I was one of the senior company officials in charge of managing the Jefferson County, Alabama debris removal contract starting in May of 2011 after tornados had inflicted heavy damage on the County.
4. Before Ceres started the work of removing large stumps with a diameter of 24 inches and greater, I discussed the removal and disposal of the stumps with the County Project Supervisor Jeff Corley and also with Wayne Sullivan, the County Engineer in separate meetings. I showed each one of them the Contract and explained how we planned to

perform the stump removals as well as to invoice for the work. I explained that we would pick up stumps on the rights-of-way while accompanied by County monitors who would document the stump removals on the load tickets. I further explained that Ceres would then bill for the stump removals under Line Items 19, 20 and 21 of the Contract Pricing Schedule for the stump removals and Ceres would then bill for the stump hauling under Line Item No. 1. Both Mr. Corley and Mr. Sullivan agreed that my explanation was consistent with the Contract and told me to proceed, though Mr. Corley said that his approval was contingent upon Mr. Sullivan's approval which Mr. Sullivan provided.

5. The stump removals were billed in the same manner as contemplated for the tree removals. For each tree that was removed, it was to be billed under the separate applicable tree removal line item of the Contract's Fee Schedule (see Exhibit 1 to my Affidavit; Line Item Nos. 9, 10, 11 and 12) and the hauling line item (Line Item No. 1 of the Fee Schedule). The Contract requires the billing of the removal of trees and stumps in addition to the billing of haulout using pricing contained in Line Item 1 of the Fee Schedule. Although we did not perform and bill for any "tree" removals, the pricing structure was similar to the stump pricing thus confirming the overall pricing structure for the haulout and removal for the trees and stumps. Like the stump removal line items of the Fee Schedule (Item Nos. 19-21), the tree removal line items (Item Nos. 9-12) make no mention of "extractions."
6. Ceres performed the stump removals and disposal as we had discussed and consistent with the same billing practices for the tree removals. Each stump that we removed was documented on a work ticket such as the work ticket which is attached at Exhibit 2. A County representative signed each and every work ticket. The County was invoiced based

upon the work tickets documenting the work as it was being performed as well as the line item pricing provided in the Contract (Item No. 1 and either Item Nos. 19, 20 or 21).


7. The FEMA Guideline referenced in the contract does not override the contract's clear Fee Schedule that determines the pricing for the completed work. In Chapter 10 (Contracted Services) under "Common Misconceptions", the FEMA Guide warns that "[t]he applicant is responsible for payment of its contracted services regardless of whether such services are eligible for Public Assistance grant funding." See Cover Page and Excerpt at Exhibit 3 from FEMA-325 Public Assistance Debris Management Guide (July 2007) at p. 94.
8. Ceres did not remove stumps from private property. The majority of the stumps were loose on the right-of-way. The County did not pay for any extractions of the stumps that Ceres may have performed, nor was the County invoiced for the stumps other than for the hauling (Price Schedule Line Item 1) and the removals (Price Schedule Line Items 19, 20 or 21). The County has failed to pay these invoices.
9. The stumps were to be paid under the removal items in Price Line Items 19, 20 and 21 of the Contract as well as under the Hauling Line Item 1 of the Contract. The County has not paid a cent for either the removal or the hauling of the stumps. Paragraph 4.3 of the Contract provides that, "The removal and disposal of all stumps maybe [sic] paid on the cubic yard basis, regardless or [sic] size or whether or not the stumps require extraction by the contractor." The Contract also provides in the same paragraph that, "Stumps not approved in advance by FEMA shall be paid for on a cubic yard basis." Ceres only billed the County for the stumps on the cubic yard basis under Line Items 19, 20 and 21 of the Contract for their removal and Line Item 1 for the hauling of the stumps.

10. In summary, the County interpreted the Contract during performance of the work that the stumps were to be paid on a cubic yard basis under Line Items 19, 20 and 21 for the stump removals and Line Item 1 for the hauling of the stumps. Every stump, that was removed and hauled, was documented on a work ticket signed by a County representative. We were authorized at the start of this work to remove and haul the stumps on the Rights of Way ("ROW"). Those tickets constituted the basis of the invoices that were submitted to the County for which Ceres is now claiming payment.
11. The County reneged on its promise to pay Ceres for the stump removal and hauling only after the work was substantially complete. Our pricing was a bargain as compared to the tornado cleanup in other parts of the state. If the County honors its contract and pays these invoices that it owes, the total average cost per cubic yard for Ceres' work was less than \$15.00 per cubic yard which is a fraction of the cost paid by other Alabama communities.
12. Ceres has a system for logging in or documenting receipt of any mail relating to any court proceeding in which Ceres may have an interest. There is no notation of Ceres ever receiving any communication from the Bankruptcy Court in which the Jefferson County bankruptcy was filed informing Ceres of a deadline for filing any claim.

I have also reviewed the file maintained by Ceres on the Jefferson County matter and there is no communication from the Bankruptcy Court as described above. I have further conferred with the personnel at Ceres whose responsibilities include receiving mail and

directing it to the proper person(s) and Ceres never received any communication from the
Bankruptcy Court relating to the time in which to file any claim.

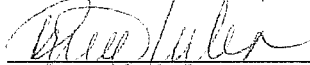
FURTHER AFFIANT SAYETH NAUGHT.



David A. Preus

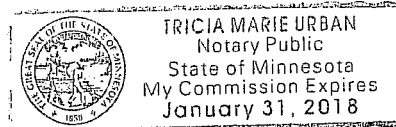
Sworn to and subscribed before
me this 1 day of August, 2014.

County of Hennepin



Notary Public

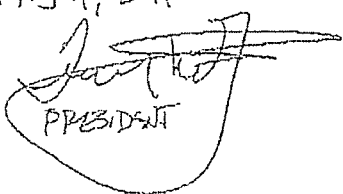
My Commission Expires: Jan 31, 2018





Fee Schedule			
Item No.	Description	Unit	Price
11	Removal of Hazardous Trees over 24" and up to 36" in diameter and placed on ROW. Payment for hauling, reduction, and/or disposal shall be included in pay item #1 above.		
		Tree	\$98.87
12	Removal of Hazardous Trees over 36" in diameter and placed on ROW. Payment for hauling, reduction, and/or disposal shall be included in pay item #1 above.		
		Tree	\$198.87
13	Removal, Hauling and Disposal of Asbestos Containing Material (ACM) and dispose at facility approved by state approved landfill to accept such items.		
		CY	\$29.95
14	Removal, hauling and disposal of White Goods. Contractor shall remove, decontaminate, transport and recycle or dispose approved white goods (within 20 miles).		
		Each	\$68.87
15	Removal, hauling and disposal of Electronic Waste - Contractor will load, transport and dispose at a facility approved by the State to accept such items.		
		Each	\$12.98
16	Removal, Hauling and Disposal of Household Hazardous Wastes (HHW). The contractor shall collect and transport HHW to a central collection site identified by the Owner (within 20 miles).		
		CY	\$12.98
17	Removal, Hauling and Disposal of Lawnmowers and Equipment with Small Engines at Owner approved site.		
		Each	\$12.98
18	Removal, Hauling and Disposal of Abandoned Tires. - The Contractor shall segregate, load, and haul eligible abandoned tires to a collection site as designated by the Owner (within 20 miles)		
		Each	\$4.98
19	Removal of hazardous Stumps 24" to 36" in diameter and placed on ROW. Payment for hauling shall be included in pay item #1 above. (Based on FEMA Stump Conversion Table)		
		CY	\$149.98
20	Removal of hazardous Stumps 36" to 48" in diameter and placed on ROW. Payment for hauling shall be included in pay item #1 above. (Based on FEMA Stump Conversion Table)		
		CY	\$249.98
21	Removal of hazardous Stumps greater than 48" in diameter and placed on ROW. Payment for hauling shall be included in pay item #1 above. (Based on FEMA Stump Conversion Table)		
		CY	\$298.98


Handwritten notes and signatures:
 (next to \$98.87) *du*
 (next to \$198.87) *du*
 (next to \$29.95) *du*
 (next to \$68.87) *du*
 (next to \$12.98) *du*
 (next to \$12.98) *du*
 (next to \$12.98) *du*
 (next to \$4.98) *du*
 (next to \$149.98) *99.00 du*
 (next to \$249.98) *229.00 du*
 (next to \$298.98) *279.00 du*

NOTE: Tipping Fees paid by County or reimbursed to Ceres at cost *du*

APPROVED: MAY 4, 2011

 PRESIDENT

LOAD TICKET			
TICKET NO.		142515	
CONTRACT NO.		133-11	
CONTRACTOR		Ceres	
DATE		6-11-11	
DEBRIS QUANTITY			
Truck No.	CE12131T	Capacity (CY)	0
Load Size (CY)	10.8	Tons	
Truck Driver	GARY ARP		
DEBRIS CLASSIFICATION			
<input checked="" type="checkbox"/>	Burnable	Stamp Lease	
<input type="checkbox"/>	Non-Burnable		
<input type="checkbox"/>	Mixed		
<input type="checkbox"/>	Other		
LOCATION			
Zone/Section	MC	Dumpsite	PG
		Time	Inspector
Loading	5302		
	Canada Ave	1015	M.Hall
Dumping	13 th St	1117A	T. O'Leary
21	133 30 923 WORK 55 957		
22	38"		
		Original: Contract Owner Yellow: Driver Pink: Ceres Gold: Other Green: Customer	

LOAD TICKET			
TICKET NO.		142516	
CONTRACT NO.		133-11	
CONTRACTOR		Ceres	
DATE		6-11-11	
DEBRIS QUANTITY			
Truck No.	CE12131T	Capacity (CY)	0
Load Size (CY)	15.2	Tons	
Truck Driver	GARY ARP		
DEBRIS CLASSIFICATION			
<input checked="" type="checkbox"/>	Burnable	Stamp Lease	
<input type="checkbox"/>	Non-Burnable		
<input type="checkbox"/>	Mixed		
<input type="checkbox"/>	Other		
LOCATION			
Zone/Section	MC	Dumpsite	PG
		Time	Inspector
Loading	706		
	Quebec St	1100	M.Hall
Dumping	13 th St	730A	T. O'Leary
21	133 30 941 WORK 55 955		
22	46"		
		Original: Contract Owner Yellow: Driver Pink: Ceres Gold: Other Green: Customer	

LOAD TICKET			
TICKET NO.		142517	
CONTRACT NO.		133-11	
CONTRACTOR		Ceres	
DATE		6-11-11	
DEBRIS QUANTITY			
Truck No.	CE12131T	Capacity (CY)	0
Load Size (CY)	23.1	Tons	
Truck Driver	GARY ARP		
DEBRIS CLASSIFICATION			
<input checked="" type="checkbox"/>	Burnable	Stamp Lease	
<input type="checkbox"/>	Non-Burnable		
<input type="checkbox"/>	Mixed		
<input type="checkbox"/>	Other		
LOCATION			
Zone/Section	MC	Dumpsite	PG
		Time	Inspector
Loading	115		
	Quebec	1:32pm	M.Hall
Dumping	13 th St	2:30p	T. O'Leary
21	133 30 924 WORK 55 952		
22	68"		
		Original: Contract Owner Yellow: Driver Pink: Ceres Gold: Other Green: Customer	


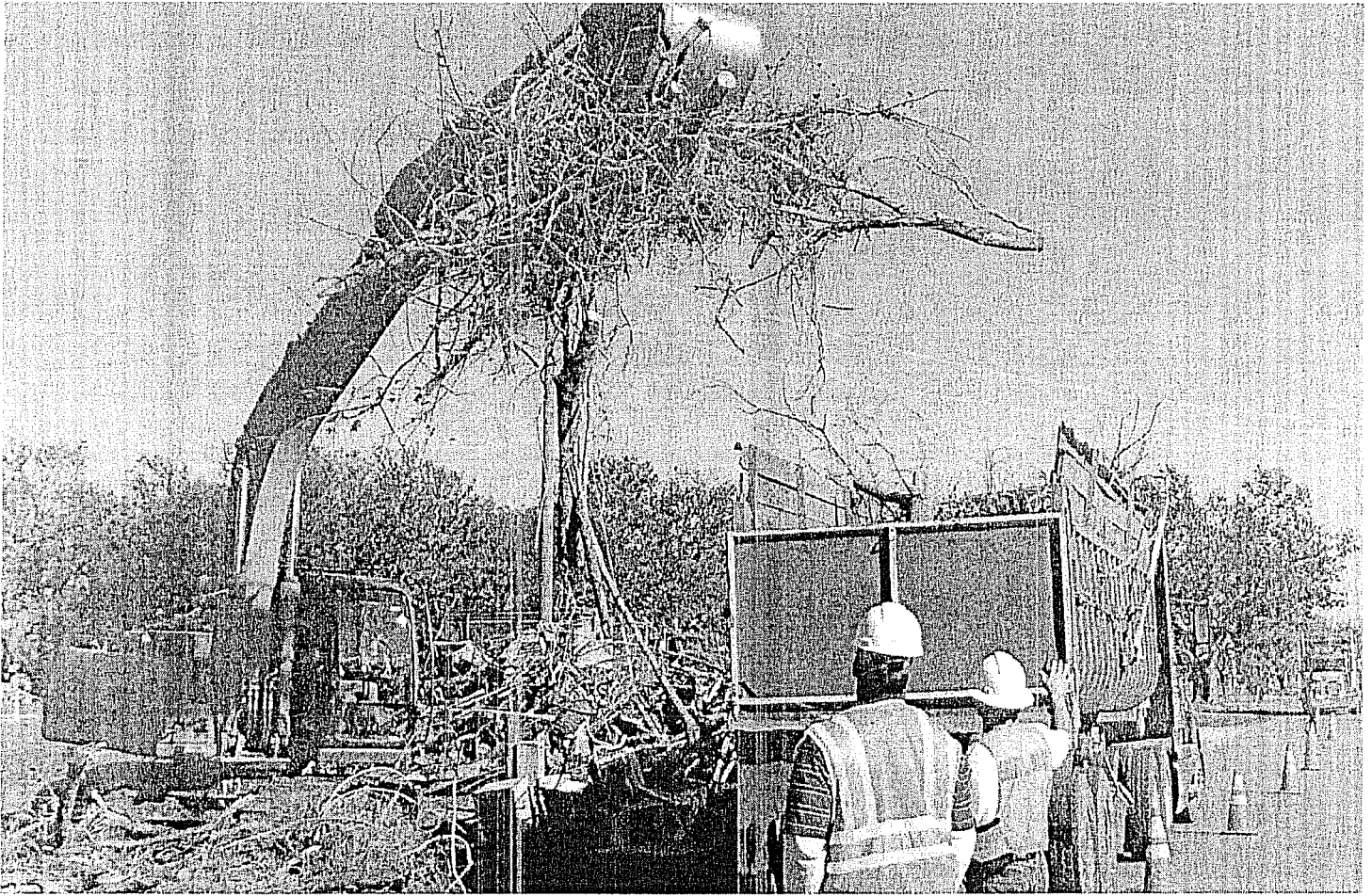
LOAD TICKET			
TICKET NO.		142518	
CONTRACT NO.		133-11	
CONTRACTOR		Ceres	
DATE		6-11-11	
DEBRIS QUANTITY			
Truck No.	CE12131T	Capacity (CY)	0
Load Size (CY)	17.9	Tons	
Truck Driver	GARY ARP		
DEBRIS CLASSIFICATION			
<input checked="" type="checkbox"/>	Burnable	Stamp Lease	
<input type="checkbox"/>	Non-Burnable		
<input type="checkbox"/>	Mixed		
<input type="checkbox"/>	Other		
LOCATION			
Zone/Section	PG	Dumpsite	PG
		Time	Inspector
Loading	318		
	Quebec St	3:15pm	M.Hall
Dumping	13 th St	4:25p	T. O'Leary
21	133 30 880 WORK 55 956		
22	50"		
		Original: Contract Owner Yellow: Driver Pink: Ceres Gold: Other Green: Customer	

EXHIBIT
2



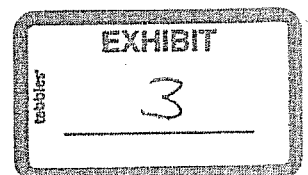
Public Assistance

Debris Management Guide

FEMA-325 / July 2007



FEMA



Common Misconceptions

Contracts written by contractors often use the FEMA name to gain credibility and give the appearance that the work to be performed would be eligible for Public Assistance grant funding. Applicants should be aware of the common phrases used by contractors and why the statements are false. Three of the most common phrases are:

1. **“FEMA-approved contract and rates.”** FEMA does not certify, credential, or recommend contractors.
2. **“FEMA eligibility determinations.”** Debris contractors do not have the authority to make eligibility determinations. Only FEMA can make an eligibility determination.
3. **“FEMA training in eligibility, documentation, and Project Worksheet development provided.”** These services often have a fee attached. Most of the training and information offered by a contractor is available free from FEMA or the State.

Applicants may enter into any contractual arrangements they wish. However, it should be noted that FEMA is not bound to applicant contractual obligations because it is not a party to those contracts. Applicants are strongly encouraged to work with State emergency management staff and FEMA to ensure compliance with the provisions of the Public Assistance Program, as well as other applicable statutes and regulations, if the applicant intends to seek Public Assistance grant assistance. The applicant is responsible for payment of its contracted services regardless of whether such services are eligible for Public Assistance grant funding. If a contract is in place prior to the applicant’s meeting with FEMA Public Assistance staff, the terms of the contract need to be reviewed to ensure compliance with the Federal procurement regulations and with the Public Assistance Program eligibility criteria. By doing so, it becomes easier for the applicant to provide FEMA with pertinent documentation to receive Public Assistance grant funding.

Additional information on developing contracts that comply with Public Assistance Program requirements is provided in Appendix G, *FEMA RP9580.201, Fact Sheet: Debris Removal – Applicant’s Contracting Checklist*.

There are two main areas of contracting that the applicant’s staff should review in the contract development planning process. These include procurement procedures and general contract provisions. Other provisions and terms are determined by the type of contract being employed for a specific service.