

CITY OF MARGATE, FLORIDA

RESOLUTION NO. 12-316

A RESOLUTION OF THE CITY OF MARGATE, FLORIDA, APPROVING RENEWAL OF CONTRACTS WITH GRUBBS EMERGENCY SERVICES, LLC AND ASHBRIITT, INC. FOR DISASTER DEBRIS MANAGEMENT SERVICES FOR A PERIOD OF FIVE YEARS EFFECTIVE JUNE 19, 2013, PROVIDING FOR A NEW CONTRACT EXPIRATION DATE OF JUNE 18, 2018, PROVIDING FOR THE SAME TERMS, CONDITIONS, PRICING AS SPECIFIED IN RFP 2007-017 AND THE EXECUTED CONTRACTS AWARDED UNDER RESOLUTION NO. 11-249.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

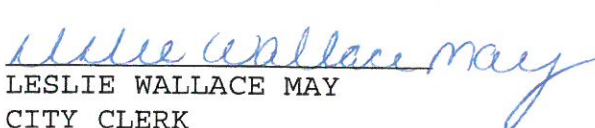
SECTION 1: That the City Commission of the City of Margate, Florida hereby approves renewal of contracts WITH Grubbs Emergency Services, LLC and Ashbriitt, Inc. for Disaster Debris Management Services for period of five years effective June 19, 2013, providing for a new contract expiration date of June 18, 2018, providing for the same terms, conditions and pricing as specified I RFP 2007-017 and the executed contracts awarded under Resolution No. 11-249.

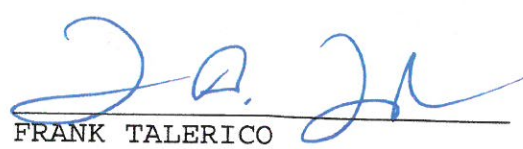
SECTION 2: That the Mayor and City Manager are hereby authorized and directed to execute he attached contract renewals for the above.

SECTION 3: That this Resolution shall become effective immediately upon its passage.

PASSED, ADOPTED AND APPROVED THIS 1<sup>st</sup> day of MAY, 2013.

ATTEST:

  
LESLIE WALLACE MAY  
CITY CLERK

  
FRANK TALERICO  
MAYOR

Resolution: 12-316

RECORD OF VOTE

Ruzzano	Yes
Donahue	Yes
Simone	Yes
Peerman	Yes
Talerico	Aye



## City of Margate, Florida

April 15, 2013

Mr. John "Gary" Grubbs  
Grubbs Emergency Services, LLC  
P.O. Box 12113  
Brookville, FL 34603

**SUBJECT: RFP 2007-017: Disaster Debris Management Services**

Dear Mr. Grubbs:

The contract for the above referenced bid expires June 18, 2013. The City of Margate is offering an extension of the contract for an additional five year period. The original terms, conditions, pricing and specifications shall remain as specified in RFP 2007-017 and the executed agreement awarded under resolution No. 11-249.

Please indicate by your initials below whether or not you are willing to extend for the above specified renewal term:

X I AM willing to extend for an additional five year period as per the pricing, terms and conditions of RFP 2007-017 and the executed agreement awarded under Resolution No. 11-249.

\_\_\_\_\_ I AM NOT willing to extend for an additional five year period as per the pricing, terms and conditions of RFP 2007-017 and the executed agreement awarded under Resolution No. 11-249.

Please sign below to confirm your agreement to renew Bid No. 2007-017. The new contract expiration date shall become June 18, 2018.

Please execute two original copies of this letter and mail the signed originals to my attention at the Purchasing Division address listed below. Prior to returning the original, you may fax or email a copy to my attention at City fax number (954) 935-5258 or to [pgreenstein@margatefl.com](mailto:pgreenstein@margatefl.com). It is my intent to place the renewal request on the City Commission agenda of May 1, 2013. An original signed copy of the letter will be returned to your firm upon approval by the City Commission for your records.

Feel free to contact me at (954) 935-5355 if you have any questions.

Very truly yours,

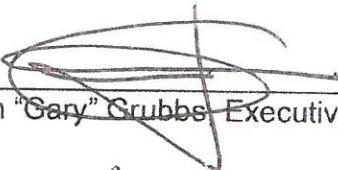


Patricia Greenstein  
Purchasing Manager

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I hereby agree to a five (5) year extension of the subject bid at the same terms, pricing and conditions.

**FOR GRUBBS EMERGENCY SERVICES, LLC:**



John "Gary" Grubbs Executive Manager

16 day of April, 2013

**FOR CITY OF MARGATE:**



Frank B. Talerico, Mayor

1 day of May, 2013



Jerry A. Blough, City Manager

1 day of May, 2013

Resolution No: 12-316





## City of Margate, Florida

April 15, 2013

Mr. John Noble  
AshBritt, Inc.  
545 East Hillsboro Boulevard  
Deerfield Beach, FL 33441

**SUBJECT: RFP 2007-017: Disaster Debris Management Services**

Dear Mr. Noble:

The contract for the above referenced bid expires June 18, 2013. The City of Margate is offering an extension of the contract for an additional five year period. The original terms, conditions, pricing and specifications shall remain as specified in RFP 2007-017 and the executed agreement awarded under resolution No. 11-249.

Please indicate by your initials below whether or not you are willing to extend for the above specified renewal term:

JN I AM willing to extend for an additional five year period as per the pricing, terms and conditions of RFP 2007-017 and the executed agreement awarded under Resolution No. 11-249.

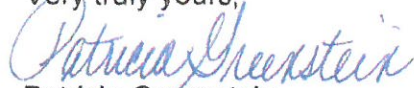
\_\_\_\_\_ I AM NOT willing to extend for an additional five year period as per the pricing, terms and conditions of RFP 2007-017 and the executed agreement awarded under Resolution No. 11-249.

Please sign below to confirm your agreement to renew Bid No. 2007-017. The new contract expiration date shall become June 18, 2018.

Please execute two original copies of this letter and mail the signed originals to my attention at the Purchasing Division address listed below. Prior to returning the original, you may fax or email a copy to my attention at City fax number (954) 935-5258 or to [pgreenstein@margatefl.com](mailto:pgreenstein@margatefl.com). It is my intent to place the renewal request on the City Commission agenda of May 1, 2013. An original signed copy of the letter will be returned to your firm upon approval by the City Commission for your records.

Feel free to contact me at (954) 935-5355 if you have any questions.

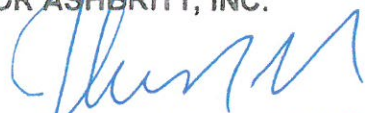
Very truly yours,

  
Patricia Greenstein  
Purchasing Manager

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I hereby agree to a five (5) year extension of the subject bid at the same terms, pricing and conditions.

FOR ASHBRIITT, INC.

  
\_\_\_\_\_  
John Noble, COO

16<sup>th</sup> day of April, 2013

FOR CITY OF MARGATE:

  
\_\_\_\_\_  
Frank B. Talerico, Mayor

15 day of May, 2013

  
\_\_\_\_\_  
Jerry A. Blough, City Manager

15 day of May, 2013

Resolution No: 12-316

CITY OF MARGATE, FLORIDA

RESOLUTION NO. 11-249

A RESOLUTION OF THE CITY OF MARGATE, FLORIDA, APPROVING AWARD TO ASHBRIITT, INC. AND GRUBBS EMERGENCY SERVICES TO PROVIDE FOR EMERGENCY RESPONSE TO A DISASTER FOR THE COLLECTION, MANAGEMENT AND DISPOSAL OF DEBRIS IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE AGREEMENTS AND RFP 2007-017 DISASTER DEBRIS MANAGEMENT SERVICES, PRICING SCHEDULES AND ALL ATTACHMENTS AND AMENDMENTS.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

SECTION 1: That the City Commission of the City of Margate, Florida, hereby approves award of RFP 2007-017, Disaster Debris Management Services to Ashbriitt, Inc. and Grubbs Emergency Services.

SECTION 2: That the Mayor and City Manager are hereby authorized and directed to execute a contract for the above, or the administration is authorized to issue a purchase order to implement same.

SECTION 3: That this Resolution shall become effective immediately upon its passage.

PASSED, ADOPTED AND APPROVED THIS 18th DAY OF JUNE, 2008.

ATTEST:

  
LESLIE RAE WALLACE  
CITY CLERK

  
MAYOR PAM DONOVAN

RECORD OF VOTE

McLean	Yes
Talerico	Absent
Varsallone	Yes
Bross	Absent
Donovan	Yes

## **GRUBBS CONTRACT**



## **AGREEMENT FOR DISASTER RECOVERY SERVICES**

**THIS AGREEMENT** made and entered into this \_\_\_\_ day of June 2008, by and Between City of Margate, as a political subdivision of the State of Florida; hereinafter referred to as "CITY" and Grubbs Emergency Services, LLC, hereinafter referred to as "CONTRACTOR," possessing FEIN 88-0474477.

**WHEREAS**, the CITY lies in the State of Florida and, as such, may experience massive destruction wrought by the impact of a hurricane landfall, violent storms spawning tornadoes as well as other natural and/or manmade disasters (Events); and

**WHEREAS**, it is foreseen that it may be necessary to provide for debris removal and disaster recovery technical assistance to appointed and elected officials within the CITY, resulting from these Events; and.

**WHEREAS**, the CONTRACTOR will perform as a prime contractor for all operations for the north side of Margate Boulevard north to the city limits and all city canals

### **I. SCOPE OF SERVICE – DEBRIS REMOVAL**

It is the intent of the Agreement for the CONTRACTOR to remove as quickly as possible all hazards to life and property resulting in the CITY. Clean up, demolition and removal will be limited to (1) that which is determined to eliminate immediate threats to life, public health and safety; (2) that which has been determined to eliminate immediate threats of significant damage to improved public or private property, and (3) that which is considered essential to ensure economic recovery of the affected community to the benefit of the community-at large. The Services shall consist of cleanup, demolition, removal, reduction and disposal of debris as directed by the designated representative of the CITY. Specifically the Scope of Services will include the items listed and priced in Exhibit I.

In addition to the above upon award of contract CONTRACTOR agrees to develop and provide (Exhibit IV), at no charge, a Debris Management Plan in accordance with the guidelines outlined in the FEMA Public Assistance Pilot Program. By participating in this program the CITY will be able to obtain up to an additional 5% (to be split between the City and the State) reimbursement for debris related costs.

As per the terms and conditions of this agreement, all attachments including RFP 2007-017 (Exhibit III), CONTRACTOR response to RFP 2007-017(Exhibit II (with pricing amended as per Exhibit I), technical specifications, insurance requirements, and all other information required or provided, etc. shall become a

part of this agreement.

## **II. TECHNICAL DISASTER RECOVERY ASSISTANCE**

It is the intent of this Agreement for the CONTRACTOR to provide disaster recovery technical assistance to appointed and elected officials within the CITY. This service shall include Program Management Assistance.

## **III. SERVICES AND FACILITIES**

It is understood that, except as otherwise specifically stated in this Agreement and Attachments/Exhibits to this Agreement, the CONTRACTOR shall provide and pay for all labor, tolls, equipment, transportation, supervision, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the services within the time specified in the Notice to Proceed as agreed upon by both parties.

## **IV. PERMITS AND REGULATIONS**

Permits and licenses of a temporary nature necessary for the prosecution of the Services shall be secured and paid for by the CONTRACTOR unless otherwise stated in this Agreement.

## **V. SUPERVISION BY CONTRACTOR**

The CONTRACTOR will supervise and direct all Services. The CONTRACTOR is solely responsible for the means, methods, techniques, sequences, safety program and procedures. The CONTRACTOR will employ and maintain on the work site(s), a qualified supervisor(s) who shall have full authority to act on behalf of the CONTRACTOR and all communications given to the supervisor by the CITY'S Authorized Representative shall be as binding as if given to the CONTRACTOR. The name(s) of the supervisor(s) will be supplied to the CITY for each issuance of a Notice to Proceed through an attachment to this Agreement in the form of a Memorandum for the Record. The CONTRACTOR shall also provide the CITY an accurate list of all subcontractors used within 72 hours of the disaster event.

## **VI. CHANGES IN SERVICES**

The CITY and CONTRACTOR may at any time order changes within the scope of services without invalidating this Agreement. All changes affecting the project's costs or modifications of the terms, conditions, and the scope of services of this Agreement shall be authorized by means of an official written Contract Change Order that is mutually agreed upon and signed by the CITY and the

CONTRACTOR. All changes must be recorded on a Written Contract Change Order before CONTRACTOR may proceed with the changes to the Services provided.

#### **TERM OF AGREEMENT**

The term of this Agreement shall be for five consecutive years beginning on the date of acceptance by and signatures of the CITY and CONTRACTOR, whichever comes later.

#### **VII. RENEWAL OF AGREEMENT**

This Agreement may be renewable on a five-year basis after a concurrence of both parties on any negotiated changes to the terms and specifications contained in this Agreement and Attachments. Agreement will be reviewed on an annual basis (December). Amended unit costs (up to 5%) may be submitted by CONTRACTOR to CITY to reflect the current disaster recovery market value of services listed in the Attachments of this Agreement. The City Manager shall have the authority to negotiate and approve up to 5% for pricing amendments. Such amendments shall become part of this Agreement after a concurrence and signature of both parties. In the event that CONTRACTOR and CITY cannot come to an agreement the CONTRACTOR shall maintain all current conditions, specifications and pricing for a period of six (6) months so the CITY can prepare specifications, advertise and award a new contract.

#### **VIII. TERMINATION**

The CITY may terminate this agreement upon a thirty (30) day written notice. The CONTRACTOR may terminate this agreement upon a one hundred eighty (180) day written notice.

#### **IX. INSURANCE AND BONDS**

CONTRACTOR shall name the CITY as additional insured on CONTRACTOR'S insurance policies. CONTRACTOR shall maintain the following insurance limits.

WORKER'S COMPENSATION – Statutory Limits of the State of Florida (or the applicable State at the time of an event);

GENERAL LIABILITY – One Million Dollars (\$1,000,000.00) any single occurrence;

ADDITIONAL LIABILITY UMBRELLA – Five Million Dollars (\$5,000,000.00)

AUTOMOBILE – One Million Dollars (\$1,000,000.00)

CONTRACTOR shall provide CITY a Certificate of Insurance evidencing

such coverage.

Upon activation and within ten (10) days of a Notice to Proceed (for each event) by the CITY, CONTRACTOR shall provide CITY with a Performance and Payment Bond in the amount of \$200,000. CITY reserves the right to reasonably increase bond amount based on the severity of the event.

Final release of bonding requirement by CITY is contingent upon the following:

- \*CONTRACTOR submitting final invoices
- \*All damage has been repaired to CITY'S satisfaction
- \*Rehabilitation of all TDSRS to CITY'S satisfaction
- \*Release of Liens received from Subcontractors
- \*All other identified issues have been resolved to the CITY'S satisfaction

#### **X. CERTIFICATES OF INSURANCE**

Required insurance shall be documented in certificates of insurance which provide that the CITY shall be notified at least thirty (30) days in advance of cancellation, non renewal, or adverse change. New certificates of insurance are to be provided to the CITY at least fifteen (15) days prior to coverage renewals. Receipt of Certificates or other documentation of insurance or policies or copies of policies by the CITY or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of CONTRACTOR'S obligation to fulfill the insurance requirements herein.

#### **XII. WARRANTY OF TITLE AND WAIVER OF LIEN**

The CONTRACTOR shall not at any time suffer or permit any lien, attachment, or any other encumbrance under the laws of the State of Florida, or otherwise by any person or persons whomsoever to remain on file with the CITY against any money due or to become due for any work done or materials furnished under this Agreement or by reason or claim or demand against CONTRACTOR. Such lien, attachment, or encumbrance, until it is removed, shall preclude any and all claims or demands for any payment by virtue of this Agreement.

#### **XIII. SUBCONTRACTING**

The CONTRACTOR shall be fully responsible to CITY for the acts and omissions for its subcontractors and of persons directly or indirectly employed by them, as the CONTRACTOR is for the acts and omissions of persons employed by it.



The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontractors relative to the services give the CONTRACTOR the same powers regards terminating any subcontract that the CITY may exercise over the CONTRACTOR under any provisions of this Agreement.

Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the CITY. The CONTRACTOR shall supply the names and addresses of subcontractors, materials suppliers and debris site locations (The Contractor shall pre-select a minimum of (4) locations with a minimum of (20) acres each, or at the discretion of the CITY) when requested to do so by the CITY upon activation of the Agreement and updated by the CONTRACTOR to the CITY on a biweekly basis during said activities. Additionally, the CONTRACTOR shall provide to the CITY, a list of temporary debris locations by April 30, and update on an annual basis.

The CONTRACTOR shall not use a subcontractor or material supplier against whom the CITY has a reasonable objection to, and shall make all reasonable attempts to subcontract with local firms currently doing business within the CITY. All subcontractors will operate in strict accord with Subcontracting Plans and Policies, as well as local, State and Federal laws governing this type of work.

#### **XIV. CITY OBLIGATIONS**

The CITY shall furnish all information and documents necessary for the commencement of work, to include valid written Notices to Proceed. A representative will be designated by the CITY to be the primary contact person for inspecting the work and answering any on-site questions prior to and after activation of this Agreement via a Notice to Proceed. Providing inspectors for the monitoring of debris operations shall be the responsibility of the CITY, as required by Federal law and policy governing those specific operations.

The primary contact shall be the Director of Public Works, Mr. Raymond Brenner.

#### **XV. PAYMENT**

Payment to the CONTRACTOR by the CITY will not be contingent on funding from any source.

#### **XVI. ENTIRE AGREEMENT**

This Agreement and Attachments referred to herein, contain the entire Agreement of the parties and there are no other binding promises or conditions in any other Agreement whether oral or written.

**XVII. LITIGATION VENUE:**

The parties waive the privilege of venue and agree that all litigation between them shall take place in the state court in Broward County, Florida. The parties waive jury trial for all disputes.

**XVIII. INDEMNIFICATION:**

CONTRACTOR agrees to indemnify, defend, save, and hold harmless the CITY, their officers and employees, from or on account of all damages, losses, liabilities and costs to the extent caused by the negligence, recklessness or CONTRACTOR in the performance of this construction contract.

**XIX. DISPUTES:**

Notwithstanding anything provided in this contract, any dispute arising under this contract which is not disposed of by agreement shall be decided by the City Manager of the city of Margate, Florida, who shall reduce his decision in writing and furnish a copy thereof to the contractor. The decision of the City Manager of the city of Margate, Florida and those persons to whom he delegates authority to decide disputes, shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrarily, or grossly erroneous as to necessarily imply bad faith, or not supported by substantial evidence.

**XX. NOTICE**

**14.1.1 Giving Notice:**

All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

The business address of CONTRACTOR is:

Grubbs Emergency Services, LLC  
1115 South Main Street  
Brooksville, Florida 34601

The business address of CITY is:

City Manager  
City of Margate  
5790 Margate Blvd.  
Margate, Florida 33063

**XXI. WAIVER OF JURY TRIAL:**

CITY and CONTRACTOR hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action, proceeding, lawsuit or counterclaim based upon the contract, arising out of, under, or in connection with the construction of the work, or any course of conduct, course of dealing, statements (whether verbal or written) or the actions or inactions of any party.

**XXII. PAYMENT TO CONTRACTOR**

The CONTRACTOR may invoice the CITY not more than once every seven (7) days. The payment request shall be filled out and signed by the CONTRACTOR covering the work performed during the invoice period and supported by such data as the CITY may reasonably require. The CITY shall, within forty five (45) days of receiving such payment request, finalize review of documentation and make payment to CONTRACTOR.

CONTRACTOR will be subject to audit by Federal, State and local agencies pursuant to audit requirements outlined in the Code of Federal Regulation, Title 44. Payment to the CONTRACTOR for services outlined in this Agreement shall not be contingent on funding from any source.

Invoices submitted with incomplete forms and/or tickets will result in no payment for that item.

WITNESS WHEREOF, the parties hereto have made an executed Agreement on the respective dates under each signature; City of Margate through its City Commission signing by and through its Mayor and City Manager, authorized to execute same by City Commission the 18th of June 2008 and PRESIDENT of GRUBBS EMERGENCY SERVICES signing by and through its representatives is duly authorized to execute same.

**CITY OF MARGATE**

ATTEST:

Leslie Rae Wallace  
City Clerk, Leslie Rae Wallace

Pam Donovan  
Mayor, Pam Donovan

Francis J. Porcella  
City Manager, Francis J. Porcella

Resolution No. 11-249

Date: 6/18/08

I HEREBY CERTIFY that I have approved this Agreement as to form.

Eugene M. Steinfeld  
City Attorney, Eugene M. Steinfeld



## CONTRACTOR

FOR CORPORATION: GRUBBS EMERGENCY SERVICES, LLC


*R. V. Jyle, chief manager*  
President

*R. VICTOR TAGLIA, chief manager*  
Printed Name

(CORPORATE SEAL)

~~Secretary~~

~~Printed Name~~

*NA* 

- Exhibit I - Amended Pricing Schedule
- Exhibit II - RFP 2007-017 Response
- Exhibit III - RFP 2007-017 Solicitation
- Exhibit IV - Letter from Grubbs
- Exhibit V - Required Contract Provisions - Federal Aid Construction Contracts

**EXHIBIT I – ALL INCLUSIVE PRICING SHEET**

## EXHIBIT I

### GRUBBS PRICING OF ALL INCLUSIVE SERVICES

The Contractor will provide all services and expenses necessary for the debris pickup and hauling, processing of debris at the TDMS, and final disposal (except tipping fees which shall be a pass through cost; refer to Addendum 1, page 1, question 3) for a fixed unit, as noted below, but excluding management of debris designated as hazardous waste. This cost is inclusive of all related expenses including, but not limited to, contract administration, technical assistance to the City, personnel training and certification, TDMS management, services for security, safety and traffic management, and associated actions necessary for implementation of debris management operations by the Contractor as defined in the agreement. The contractor must comply with 44 CFR 13.36 (b) (10), specifically, "grantees and sub-grantees may use time and material type contracts only if the contract includes a ceiling price that the contractor exceeds at its own risk".

#### **Total Cost/Cubic Yard**

Total cost per cubic yard (excluding Tipping Fees)  
for all inclusive vegetative debris including tree  
debris, hangers, leaners and stumps, including  
cost for removal and backfilling of stumps and trees,  
construction and demolition debris (including white  
goods) for Right of Way/Public Property

**\$18.00**

**Vegetative Debris Removal from Canals**

**\$20.00**

Should FEMA require, in lieu of inclusive pricing, individual vegetative and tree debris cubic yard costs the City reserves the right to negotiate with your firm for those individual cubic yard costs. Should an agreement not be reached, the City reserves the right to negotiate with other firms or to take whatever action is necessary based on the best interests of the City and the requirements of Federal, State or Local regulations.

The above pricing is all inclusive (except for Tipping Fees) and the City has the right at its discretion to utilize our firm for those services which are listed as optional in our RFP response.

Cost of haul out of debris from the TDMS to FDS is included. If FDS are outside of the tri-county area, a mileage rate (to be determined) will apply to the miles outside of the tri-county area.

Date:

11/8/08

Firm:

Grubbs Emergency Services, LLC

Name:  
(Print or Type)

R. VICTOR TAGLIA, Chief Manager

Signature:

R. V. C. Chief Manager

**EXHIBIT IV – LETTER FROM GRUBBS**





April 18, 2008

Ms. Patricia Greenstein, CPPB  
Purchasing Manager  
City of Margate  
5790 Margate Blvd.  
Margate, FL 33063

Dear Ms. Greenstein,

I would like to formerly follow up in reference to development of a Debris Management Plan for the City of Margate which we discussed at the 'short list' meeting.

As I stated, the FEMA Public Assistance Pilot Program was enacted via legislation in June 2007 and driven by a need to improve post-storm disaster recovery efforts. FEMA has strongly urged all communities (applicants) to take a proactive stance in their recovery process.

With that said, Grubbs Emergency Services, LLC is offering a new service that assists local governments to prepare and submit a qualified Debris Management Plan (DMP), a vital component of the new Public Assistance Pilot Program established by the Federal Emergency Management Agency.

To qualify for the incentive of an additional 5% reimbursement, applicants should take into consideration FEMA's eligibility requirements when developing its DMP. Grubbs Emergency Services is positioned to assist local leaders with a DMP design and FEMA submittal.

Grubbs Emergency Services has submitted a draft of a Debris Management Plan to the City for review. We are prepared to finalize the DMP and submit it to FEMA for approval, upon award of a Debris Management Contract with the City of Margate. Our plans are written to be in full compliance with FEMA requirements and guidelines which will assure eligibility and a quick turn around time for approval. This will assure the City of Margate judiciously has a plan in place prior to the quickly approaching 2008 Hurricane Season.

We appreciate the business relationship we have had with the City of Margate in the past, and anticipate for the opportunity to continue that union in the future.

Respectfully,

A handwritten signature in black ink, appearing to read "B. Thomason", is written over a faint, larger signature.

Brian Thomason, Senior Vice President Operations

cc: Ray Brenner, Public Works Director  
102 Rock Island Road  
Margate, Florida 33063

11-249

## **ASHBRITT CONTRACT**

***The City of Margate, FL  
Pre-Storm Contract for Disaster Recovery Services***

THIS CONTRACT is made this the 18<sup>th</sup> day of June, 2008, by and between AshBritt, Inc. a Florida corporation (hereinafter referred to as "Contractor") and The City of Margate, a political subdivision of the State of Florida (hereinafter referred to as "City").

**RECITALS**

WHEREAS, it is foreseen that it is be in the public interest to provide for the expedient removal of storm debris within the corporate limits of the City and to provide recovery Technical Assistance to the appointed and elected officials resulting from a future natural or manmade disaster; and

WHEREAS, the City has in the past suffered the full force and effects of major storms and the resulting destruction brought upon the City by such storms or manmade events; and

WHEREAS, the Public Health and Safety of all the citizens will be at serious risk; and

WHEREAS, the immediate economic recovery of the City and its citizens is a major concern and the primary priority for recovery; and

WHEREAS, the availability of experienced prime storm debris contractors may be severely limited; and

WHEREAS, AshBritt, Inc. has the experience, equipment, manpower, wherewithal, and resources, as well as the permits and licenses to perform all related debris and other storm services; and

WHEREAS, the City and the Contractor have agreed to the Scope of Services, pricing schedule, terms, conditions and technical specifications as set out in this competitive Contract; and

WHEREAS, the Contractor shall be responsible for the south side of Margate Boulevard (including center medians) south to the city limits and

THEREFORE, said parties do agree to the following stipulations, conditions and technical specifications.

**1.0 SERVICES**

**1.1 Scope of Contracted Services:**

The Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver the timely removal and lawful disposal of all *eligible*

storm-generated debris (hereinafter referred to as "debris"), including hazardous and industrial waste materials and within the time specified in Section 3.3 of this Contract. Emergency debris push, debris removal, demolition of structures and hazard mitigation actions shall be limited to:

- 1) That which is necessary to eliminate immediate threats to life, public health, and safety;
- 2) That which has been necessary to eliminate immediate threats of significant additional damage to improved public or private property;
- 3) That which is considered essential to ensure the economic recovery of the affected community to the benefit of the community at large.

The contractor provided services shall provide for the effective and efficient removal and lawful disposal of storm debris accumulated on all public properties, streets, roads, other rights-of-way, public school properties, any other locally owned facility or residential or commercial site as may be directed by the City. Contracted services will only be performed after the delivery, to the Contractor, an Approved Work Authorization and a Notice-to-Proceed by the City. The Contractor shall load and haul the debris from within the legal boundaries of the City to a site(s) specified by the City as set out in Section 4.8 of this Contract.

#### **1.2 Emergency Road Clearance / Push:**

The Contractor shall accomplish the push by the cutting, tossing, stacking and/or pushing of storm debris from the primary transportation routes including hazardous hanging limbs and/or hazardous leaning trees as identified by and directed by the City. This operational aspect of the scope of contracted services shall be for a period of 72 daylight hours (plus or minus) after a disaster event, unless extended by the City. Once this debris push task is accomplished, the following additional tasks will begin as requested.

#### **1.3 Right-of-Way (ROW) Removal:**

The Contractor shall mechanically load and/or haul all debris from the local ROW when directed to do so by the City. The debris materials shall be delivered to a City designated Temporary Debris Storage and Reduction Site (TDSRS) for processing. The Contractor shall use reasonable care to prevent damage to City or private property not already damaged by the disaster event, or by other causes, in the process of ROW debris removal.

#### **1.4 Right-of-Entry (ROE) Removal (if implemented):**

The Contractor will remove ROE debris from private property with due diligence, as directed by the City, or the monitoring team. The Contractor agrees to make reasonable efforts to save from destruction items that the property owners wish to save, (i.e., trees, small buildings, etc.) The Contractor will exercise caution when working around public utilities (i.e., gas, water, electric, sewer, etc.). Every effort will be made to mark and avoid these utilities. Contractor does not warrant that utility damages will not occur as a result of conducting the debris removal services on private property.

**1.5 Demolition of Structures (if implemented):**

The Contractor will demolish any unsafe structures designated for removal only at the direction of the City. The Contractor will abide by all asbestos abatement regulations unless waived by the Government. (See section 5.14) The Contractor agrees to demolish and remove in a timely manner all unsafe structures as determined and directed by the City as set out in Section 1.1 of this Contract

**1.6 Private Property Waivers:**

The City will secure all necessary permissions, waivers and Right-of-Entry Agreements from property owners as prescribed by the Government for the removal of debris and/or demolition of structures from residential and/or commercial properties, as set out in Sections 1.4 and 1.5 above.

**1.7 Management of Temporary Debris Sites:**

The Contractor shall operate and manage all Temporary Debris Storage and Reduction Sites (TDSRS) as the City may require and authorize. In doing so, the contractor will perform all, but not limited to, the following actions:

- A. Prepare a layout plan for each site
- B. Provide the City with a pre-use condition report to include soil test, photos and other evidence of prior use and conditions.
- C. Provide site security, traffic control, fire safety, tower construction and the environmental safe guard requirements of the Government.
- D. Process all debris as directed by the City, to include grinding, incineration, and/or compaction with as much separation as may be practical.
- E. Separate white goods for specialized disposal as directed by the City.
- F. Restore any TDSRS to as near pre-storm conditions as possible using the pre-use condition report as a basis. Leave such to the site improvements as the City may elect.

**1.7 Disaster Recovery Technical Assistance:**

The Contractor will provide, upon request, Disaster Recovery Technical Assistance to elected and appointed officials within the City. This service shall include support guidance on all aspects of the recovery process. Emphasis will be on the debris management disaster grants. The contractor will provide compliance and documentation support through the use of experienced specialists. These specialists will be supervised by a senior contractor team member with the goal of assisting the City to receive the maximum reimbursement available from external sources.

**1.8 Other Disaster Services:**

The City may require, request, and direct the contractor to supply and/or perform other/additional services not set out in the scope of services for this contract. These additional taskings shall be conveyed in writing to the contractor and any such conveyance shall become an amendment to this contract.



### **1.8.1 Additional Support Services:**

The Contractor can/will provide *Additional Support Services* as requested by the City. The Contractor maintains an inventory of professional storm recovery service providers, which include but are not limited to: emergency power, potable water, emergency ice, feeding facilities, disaster worker support (housing, laundry, and security), waterway clearing, and preservation of historical sites, vessel recovery, hazardous waste remediation, and bio-terrorism remediation. In the event the City requests the contractor to provide *Additional Support Services*, the contractor will deliver immediately a price value for each service requested for consideration and negotiation

The multitude of variables attending such services (i.e., timing, distance, units required, and necessary duration of service), makes the listing or pricing of each such services as an attachment to this contract impractical. This contractor will provide such services at the lowest possible unit, hourly or lump sum price using the pricing value listing mentioned in section 1.8.1

## **2.0 PERFORMANCE OF SERVICES**

### **2.1 Description of Service:**

The Contractor agrees to perform the contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations and permits. Only the highest quality workmanship will be acceptable. Services, equipment and workmanship not conforming to the Contract documents or meeting the approval of the City may be rejected. Replacements and/or rework, as may be required, will be accomplished at no additional cost to the City.

### **2.2 Cost of Services:**

The Contractor shall bear all costs of performing contracted services, as directed by the City, including but not limited to that which is set out in Section 1.0. This will include applicable permits and license fees as well as all maintenance costs required to maintain its vehicles and other operating equipment in a condition adequate to accomplish the contracted services as set out in this contract.

### **2.3 Matters Related to Performance:**

#### **2.3.1 Subcontractor(s):**

The Contractor may utilize the service of subcontractors and shall be responsible for the acts or omissions of its subcontractors to the same extent the Contractor is responsible for the acts and omissions of its employees. The Contractor shall ensure that all its subcontracts have and carry the same major provisions of this Contract and that the work of their subcontractors is subject to said provisions. Nothing contained in this Contract shall create any contractual relationship between any subcontractor and the City. The Contractor shall supply the names and

addresses of subcontractors and materials suppliers when requested to do so by the City.

**2.3.2 Indemnification:**

The Contractor agrees to indemnify, hold harmless and defend the City from and against any and all liabilities, suits, actions, legal proceedings, claims demands, damages, costs and expenses (including reasonable attorney's fees) rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract.

**2.3.3 Insurance(s):**

The Contractor agrees to keep the following Insurance in full force and effective during the term of this Contract. The Contractor must also name the City, as additional insured, while working within the boundaries of the City.

**2.3.4 Worker's Compensation:**

This coverage is required if the Contractor employs individuals on either a full or part-time basis to perform the contracted services.

- ◆ Coverage A            Statutory State Requirements
- ◆ Coverage B            \$1,000,000

**2.3.5 Automobile Liability:**

- Bodily Injury            \$1,000,000 each person  
                                 \$1,000,000 each accident
- Property Damage        \$1,000,000 each accident

**2.3.6 Comprehensive General Liability:**

- Bodily Injury            \$1,000,000 each person  
                                 \$2,000,000 aggregate
- Property Damage        \$1,000,000 each accident  
                                 \$2,000,000 aggregate

**2.3.7 Insurance Cancellation / Renewal:**

The Contractor will notify the City at least thirty (30) days in advance of cancellation, non-renewal or adverse change to the required insurance. New certificates of insurance are to be provided to the City at least ten (10) days following coverage renewals or changes.

**3.0 STANDARDS OF PERFORMANCE**

**3.1 Contractor Representative:**

The Contractor shall have a knowledgeable and responsible Manager/Supervisor report to the City's designated Contract Representative within twenty four (24) hours following a Notice-to-Proceed issued by the City. The Contractor Manager/Supervisor shall have the authority to implement all actions and

commitments required to begin the performance of contracted services as set out in this Contract and the Contractor's General Operations Plan.

**3.2 Mobilization:**

When the written Notice to Proceed has been received by the Contractor and/or the on-site Contractor Manager/Supervisor, he/she will make all necessary arrangements to mobilize sufficient resources to begin work within 24 hours. The balance of the maximum required resources will be mobilized as needed to support the most efficient workforce augmentation as possible.

**3.3 Time to Complete:**

The Contractor shall complete all directed work as set out in Section 1.0 of this Contract in 180 working days and in accordance with Section 5.8 of this Contract, unless extended by the City.

**3.4 Completion of Work:**

The Contractor shall be responsible for removal of all debris up to the point where remaining debris can only be described as storm litter and additional collection can only be accomplished by the use of hand labor.

**3.5 Extensions :**

In as much as this is a "time is of the essence" based Contract; the commencement of contracted services will be as set out in Section 3.2. If the completion of this Contract is delayed by actions of the City, then the Contract shall be extended for such time as caused by the delay to allow the Contractor to complete the performance of the Contract. This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

**3.6 Term of Contract:**

The term of the Contract shall be for five (5) consecutive years beginning on the date of acceptance by and signatures of the City and Contractor, with the City having the option to extend the terms of this Contract for an additional five-year period.

**3.7 Contract Renewal:**

This Contract may be renewed for additional five year term after a written acceptance of both parties on any negotiated changes to the terms and specifications contained in this Contract, Section 7.0 and Exhibits I, II, III & IV . Contract will be reviewed on an annual basis (each December), at which time amended unit costs (up to 5%) may be submitted by the Contractor to the City to reflect the current disaster recovery market value of all contracted services in this Contract. The City Manager shall have the authority to negotiate and approve up to 5% for pricing amendments. Such amendments shall become part of this Contract after both parties sign any such written amendment(s). In the event that CONTRACTOR and CITY cannot come to an agreement of renewal the CONTRACTOR shall maintain all current conditions, specifications and pricing for a

period of six (6) months so the CITY can prepare specifications, advertise and award a new contract.

### **3.8 Contract Termination:**

This Contract shall terminate upon 180 days written notice from either party and delivered to the other party, as set out in Section 8.1 of this Contract.

## **4.0 GENERAL RESPONSIBILITIES**

### **4.1 Other Agreements:**

The City may be required to enter into agreements with Federal and/or State agencies for disaster relief. The Contractor shall be bound by the terms and conditions of such agreements. A copy of any such agreements or instructions shall be delivered to the contractor, in writing, in the shortest possible time.

### **4.2 City Obligations:**

The City shall furnish all information and documents necessary for the commencement of contracted services, to include a valid written Notice to Proceed. A representative will be designated by the City to be the primary point of contact for inspecting the work and answering any on site questions prior to and after activation of this Contract via a written Notice to Proceed. The City is responsible for issuing all Public Service Announcements (PSA) to advise citizens and agencies of the availability and responsibility for storm debris services. The Contractor may assist the City with the development of debris-based PSA(s), if requested.

### **4.3 Conduct of Work:**

The Contractor shall be responsible for planning and conducting all operations in a satisfactory workmanship manner. The Contractor shall exhibit respect for the citizens and their individual private properties. All operations shall be conducted under the review of a City Representative. The Contractor shall have and require strict compliance with accepted ethical practices.

### **4.4 Supervision:**

The Contractor will supervise and/or direct all contracted services. The Contractor is solely responsible for the means, methods, techniques, safety program and procedures. The Contractor will employ and maintain on the work site a qualified supervisor who shall have full authority to act on behalf of the Contractor on all communications given to the supervisor by the City.

### **4.5 Damages:**

The Contractor shall be responsible for conducting operations in such a manner as to cause the minimum damage possible to existing public, private and commercial property and/or infrastructure. Contractor shall also be responsible for any damages owing to the negligence of its employees and subcontractors as set out in Sections 1.2 through 1.5 of this Contract.



#### **4.6 Other Contractor(s):**

The **Contractor** shall acknowledge the presence of other contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work.

#### **4.7 Ownership of Debris :**

All debris shall become the property of the **Contractor** for removal and lawful disposal. The debris will consist of, but not be limited to vegetative, construction and demolition, white goods and household solid waste.

#### **4.8 Disposal of Debris:**

Unless otherwise directed by the **City**, the **Contractor** shall be responsible for determining and executing the method and manner for lawful disposal of all eligible debris, including regulated hazardous waste. The location of the TDSRS(s) and final disposal site(s) shall be determined by the **City**. Other additional sites may be utilized as directed and/or approved by the **City**.

### **5.0 GENERAL TERMS and CONDITIONS**

#### **5.1 Geographic Assignment:**

The geographic boundary for work by the **Contractor's** crews shall be as directed by the **City** or its monitors. Work will be limited to properties located within the **City** legal boundaries.

#### **5.2 Multiple, Scheduled Passes:**

The **Contractor** shall make no fewer than two scheduled and/or unscheduled passes of each area impacted by the storm event. The **City** shall direct the intervals of time for all passes. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the **City**. Upon agreement between the **City** and the **Contractor** the number of passes may be increased based on mutual agreement regarding the amount of additional debris brought to the ROW.

#### **5.3 Operation of Equipment:**

The **Contractor** shall operate all trucks, trailers and all other equipment in compliance with any/all applicable federal, state and local rules and regulations. Equipment shall be in good working condition. All loading equipment shall be operated from the road, street or ROW using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed behind the curb or outside of the public ROW unless otherwise directed by the **City**. Should operation of equipment be required outside of the public ROW, the **City** will provide a Right-of-Entry Agreement, as set out in Section 1.6 of this Contract.



#### **5.4 Certification of Load Carrying Capacity:**

The Contractor shall submit to the City a certified report indicating the type of vehicle, make and model, license plate number, assigned debris hauling number and measured maximum volume, in cubic yards, of the load bed of each piece of equipment to be utilized to haul storm generated debris.

The measured volume of each piece of equipment shall be calculated from the actual physical measurement performed by the City or its monitors and Contractor Representative(s). A standard measurement form certifying actual physical measurements of each piece of hauling equipment shall be an attachment to the certified report(s) submitted to the City by the contractor or monitor.

#### **5.5 Vehicle Information:**

The maximum load capacity of each hauling vehicle will be rounded to the nearest whole cubic yard (CY). (Decimal values of .1 through .4 will be rounded down and decimal values of .5 through .9 will be rounded up.) The measured maximum load capacity (as adjusted) of any vehicle load bed will be the same as shown on the trailer measurement form and placarded on each numbered vehicle or piece of equipment used to haul debris. All vehicles or equipment used for hauling will have and use a Contractor approved tailgate and sideboards will be limited to those that protect the load area of the trailer.

#### **5.6 Security of Debris During Hauling:**

The Contractor shall be responsible for the security of debris on/in each vehicle or piece of equipment used to haul debris. Prior to leaving the loading site(s), the Contractor shall ensure that each load is secure and trimmed so that the debris does not extend horizontally beyond the bed of the hauler. All loose debris shall be reasonably compacted and secured during transport.

#### **5.7 Traffic Control:**

The Contractor shall mitigate the impact on local traffic conditions to all extents possible. The Contractor is responsible for establishing and maintaining appropriate traffic control in accordance with the latest Manual of Uniform Traffic Control Devices. The Contractor shall provide sufficient signing, flagging and barricading to ensure the safety of vehicular and pedestrian traffic at all debris removal, reduction and/or disposal site(s).

#### **5.8 Monitoring of Debris Operations**

The Government may require that the City conduct a debris monitoring program. The contractor will assist the monitoring team, if this activity is by force account or contracted. The contractor will cooperate and coordinate with the debris monitoring team in all aspects of the team activity. If the City elects to conduct the debris monitoring by force account, the contractor will conduct detailed debris monitoring training at the request of the City. Debris eligibility determinations, by the monitoring team, shall be made at the point of vehicle loading. Determinations of the vehicle percentage full, by the monitoring team, shall be made at the entrance to the TDSRS.

Logistical support and reports to the City on debris monitoring activities are the responsibility of the team manager or monitoring contractor.

**5.9 Work Days/Hours:**

The Contractor may conduct debris loading and hauling operations from sunup to sundown, seven days per week. Any mechanical, debris reduction operations at the TDSRS may be conducted twenty-four hours per day, seven days per week. The work week is from the start of operations on Sunday am, thru the end of operations on Saturday pm. Adjustments to work days and/or work hours shall be as directed by the City following consultation and notification to the Contractor.

**5.9 Hazardous and Industrial Wastes:**

The Contractor shall set aside and reasonably protect all hazardous or industrial materials encountered during debris removal operations for collection and disposal in accordance with local, state and federal guidelines governing the transportation and disposal of said hazardous or industrial materials. The Contractor will provide, operate and maintain a Hazardous Waste and Industrial Material Storage and Containment area until proper disposal of such waste is feasible. The Contractor may use the services of a subcontractor specializing in the management and disposal of such materials and waste, if the contractor is directed to conduct such operations by the County.

**5.10 Stumps:**

All hazardous/eligible stumps identified by the City will be extracted, loaded, transported, stored, reduced and disposed in accordance with the standards of this Contract. Stump voids will be filled with clean fill material native to the geographical area. ~~All stumps that are removed and the stump voids that are filled will be documented, and invoiced by the contractor for payment in accordance with the rates contained on Exhibit B (City Unit Rate Schedule). See Exhibit I – Pricing~~ All inclusive services

**5.11 Utilizing Local Resources:**

The Contractor shall, to the greatest extent practical, will give priority to utilizing resources within the County. This local preferences priority will include, but not limited to, debris hauling, procurement of services, supplies and equipment, and awarding other recovery service subcontracts and employment to the local work force.

**5.12 Work Safety:**

The Contractor shall provide and enforce a safe work environment in all activities to which it is tasked. The Contractor will provide such safety equipment, training and supervision as may be required by the City and/or Government. The Contractor shall ensure that its subcontracts contain a similar safety provision.

### **5.13 Inspection and Testing:**

All debris shall be subject to adequate inspection by the City or any public authority in accordance with generally accepted standards to ensure compliance with the Contract and applicable federal, state and local laws. The City will, at all times, have access to all work sites and disposal areas. In addition, authorized representatives and agents of the Government shall be permitted to inspect all work activities, equipment, materials, invoices plus other relevant records and documentation.

### **5.14 Other Agencies:**

The term "Government" as used in this Contract refers to those governmental agencies, which may have a regulatory or funding interest in this Contract.

## **6.0 REPORTS CERTIFICATIONS and DOCUMENTATION**

### **6.1 Accountable Debris Load Forms:**

The City shall accept the serialized copy of the Contractor's debris reporting ticket(s) as the certified, original source documents to account for the measurement and accumulation of the volume of debris delivered and processed at the TDSRS. The serialized ticketing system will also be used in the event of additional debris handling for volume reduction and/or the possible requirement for a debris transfer station(s). These tickets will also be utilized for debris haul out for final disposal. These tickets will be the basis of any electronic generated billing and/or report(s).

### **6.2 Reports:**

The Contractor shall submit periodic, written reports to the City as requested or required, detailing the progress of debris removal, processing and disposal. These reports may include, but not limited to:

#### **6.2.1 Daily Reports:**

The daily reports will detail the location where passes for debris removal were conducted, the quantity of debris (by type) removed or disposed, the total number of crews engaged in debris management operations, the crews assignments by zone, the number of burners, grinders, chippers and mulching machines in operation, and their daily production. The Contractor will also report damages to private property caused by the debris operation or damage claims made by citizens and such other information as may be required to completely describe the daily conduct of the Contractor's operations. This report will reflect close of business at 6 pm the prior twenty four (24) hours.

#### **6.2.2 Weekly Summaries:**

A weekly summary of all information contained in the daily reports as set out in Section 6.2.1 will be provided to the City. The contractor will provide this report within two business days after the end of the week. The

Contractor will provide both reports in written and electronic format if requested.

**6.2.3 Report(s) Delivery:**

The scheduled time and point of delivery for the debris and other recovery operations reports will be directed by the City in consultation with the Contractor.

**6.2.4 Final Project Closeout Report:**

Upon final inspection and/or closeout of the project by the City, the Contractor shall prepare and submit a detailed description of all debris management activities to include, but not limited to the total volume, by type of debris hauled, reduced and/or disposed, plus the total cost of the project invoiced to the County. If requested, the Contractor will provide additional information to adequately document the conduct of the debris management operations for the City and/or Government, to include electronic spread sheets.

**6.3 Additional Supporting Documentation:**

The Contractor shall submit reports and/or other documentation on debris loading, hauling, disposal and load capacity City measurements as may be required by the City and/or Government to support requests for debris project reimbursement from external funding sources.

**6.4 Report Maintenance:**

Contractor will be subject to audit by federal, state and local agencies pursuant to this Contract. The Contractor will maintain all reports, records, and debris reporting tickets and contract correspondence for a period of not less than three (3) years. These maintained reports may be electronic scanned copies of the daily load tickets and tower determination of percent full.

**6.5 Contract File Maintenance:**

The Contractor will maintain this Contract and the invoices that are generated for the contracted services for a period of five (5) years or the period of standard record retention of the County, whichever is longer.

**7.0 UNIT PRICES and PAYMENTS**

**7.1 Unit Price for Emergency Push / Road Clearance:**

The Contractor will invoice the City and be paid for this contracted service in accordance with the rates as set out in the RFP document.

**7.2 Unit Price for Debris:**

The unit price per cubic yard includes all costs for mobilization, loading, transportation, storage, reduction, disposal, overall project management and demobilization as may be directed by the City. All eligible contracted debris shall be invoiced in accordance with the rates set out in Exhibit I.

### **7.3 Unit Prices for Stumps:**

The City will determine the necessity and eligibility for ALL stump removal. Refer to Pricing of All Inclusive Services Exhibit I.

### **7.4 Billing Cycle:**

The Contractor shall invoice the City on a weekly basis reflecting the close of business on the last working day of the billing period. Serialized debris reporting tickets and disposal site verification of the actual cubic yardage for each load of debris or itemized stumps will support all invoices.

### **7.5 Payment Responsibility:**

The City agrees to accept the Contractor's invoice(s) and supporting documentation as set out in Section 6.3 of this Contract and process said invoices for payment within 45 days of the receipt of the Contractors invoice. The City will advise the Contractor within fourteen (14) working days of receiving any debris service invoice that requires additional information for approval to process for payment. Invoices submitted with incomplete forms and/or tickets will result in no payment for that item.

### **7.6 Ineligible Work:**

The Contractor will not be paid for the removal, transportation, storage, reduction and/or disposal of any material or stumps as may be determined by the City and/or Government as ineligible debris.

#### **7.6.1 Eligibility Inspections:**

The Contractor and City or the Monitoring Team will inspect each load to verify the contents are in accordance with the accepted definition of eligible debris, as set out in Section 1.1 of this Contract.

#### **7.6.2 Eligibility Determinations:**

If any load is suspect to contain material that does not conform to the definition of eligible debris, the load will be ordered to be deposited at another landfill, receiving facility or at a special location at the TDSRS. The Contractor will not invoice the City for such load(s) until the issue of eligibility is resolved.

### **7.7 Unit Price/Service Negotiations:**

Unknown and/or unforeseen events or conditions may require an adjustment to the pricing for Sections 7.1, 7.2 and 7.3 or in Exhibit I. Any amendments, extensions or changes to the scope of contracted services or unit prices are subject to full negotiations between the City and the Contractor. The results are subject to the review by the Government.



### **7.8 Specialized Services:**

The **Contractor** may invoice the **City** for costs incurred to mobilize and demobilize specialized equipment required to perform services in addition to those specified under Section 1.0 of this Contract. Additional specialized services will only be performed if/when directed by the **City**. The rate for specialized mobilization and demobilization shall be fair and reasonable in accordance with Exhibit 1I.

### **7.9 Amended Pricing**

The pricing of services in this contract reflects the anticipated severity and magnitude of a major disaster event. The **City** may choose to activate the **Contractor** in response to a disaster event of less magnitude. Upon contractor activation, by Notice-to-Precede, for a lesser event the **Contractor** reserves the right to submit to the **City** an amended and reduced pricing schedule. Any such amended pricing schedule will be submitted within three (3) business days of activation or upon the completion of the **AshBritt** damage assessment survey, whichever occurs first.

The **City** will indicate acceptance within 24 hours of the delivery of the proposed amended pricing schedule and the logic for such action. Any amendment to the contract pricing for a current activation does not amend the pricing for any future disaster event.

## **8.0 MISCELLANEOUS**

### **8.1 Notice:**

Whenever in this Contract it is necessary to give notice or demand by either party to the other, such notice or demand shall be given in writing and forwarded by certified or registered mail and addressed as follows:

To Contractor at:  
John Noble, COO  
AshBritt, Inc.  
480 South Andrews Ave, Ste 103  
Pompano Beach, FL 33069

To City at:  
City Manager  
City of Margate  
5790 Margate Boulevard  
Margate, FL 33063

### **8.2 Applicable Law:**

The laws of the State of Florida shall govern this Contract.

### **8.3 Entire Contract:**

This Contract (including any schedules or exhibits attached hereto) constitutes the entire Contract and understanding between the parties with respect to the matters contained herein. This Contract supercedes any prior contracts and/or understandings relating to the subject matter hereof. This Contract may be modified, amended or

extended by a written instrument executed by both parties as per Sections 7.7 and 8.1 of this Contract.

#### **8.4 Waiver**

In the event one of the parties waives a default by the other, such a waiver shall not be construed or deemed to be a continuing waiver of any subsequent breach or default of the other provisions of this Contract, by either party.

#### **8.5 Severability:**

If any provision of this Contract is deemed or becomes invalid, illegal or unenforceable under the applicable laws or regulations of any jurisdiction, such provision will be deemed amended to the extent necessary to conform to applicable laws or regulations. If it cannot be so amended without materially altering the intention of the parties, it will be stricken and the remainder of this Contract will remain in full force and effect.

#### **8.6 Litigation Venue**

The parties waive the privilege of venue and agree that all litigation between them shall take place in the state court in Broward County, Florida. The parties waive jury trial for all disputes.

#### **8.7 Indemnification:**

**Contractor** agrees to indemnify, defend, save, and hold harmless the **City**, their officers and employees, from or on account of all damages, losses, liabilities and costs to the extent caused by the negligence, recklessness or **Contractor** in the performance of this contract.

#### **8.8 Disputes:**

Notwithstanding anything provided in this contract, any dispute arising under this contract which is not disposed of by agreement shall be decided by the City Manager of the city of Margate, Florida, who shall reduce his decision in writing and furnish a copy thereof to the contractor. The decision of the City Manager of the city of Margate, Florida and those persons to whom he delegates authority to decide disputes, shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrarily, or grossly erroneous as to necessarily imply bad faith, or not supported by substantial evidence.

#### **8.9 Waiver of Jury Trial:**

**City** and **Contractor** hereby knowingly, irrevocably, voluntarily and Intentionally waive any right either may have to a trial by jury in respect to any action, proceeding, lawsuit or counterclaim based upon the contract, arising out of, under, or in connection with the construction of the work, or any course of conduct, course of dealing, statements (whether verbal or written) or the actions or inactions of any party.

#### **8.10 Bonds:**

Upon activation and with ten (10) days of a Notice to Proceed (for each event) by the **City**, **Contractor** shall provide **City** with a Performance and Payment Bond in the amount of \$200,000. **City** reserves the right to reasonably increase bond amount based on the severity of the event.

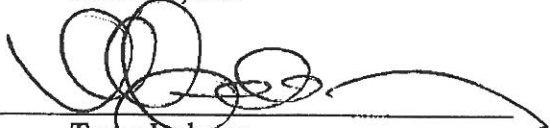
Final release of bonding requirement by **City** is contingent upon the following:

1. **Contractor** submitting final invoices
2. All damage repaired to **City's** satisfaction
3. Rehabilitation of all TDSRS to the satisfaction of the **City**.
4. Release of all liens received from Subcontractors
5. All other identified issues have been resolved to the **City's** satisfaction.

IN WITNESS WHEREOF, the Contractor has caused this Contract to be signed in its corporate name by its authorized representative and the City has caused this Contract to be signed in its legal corporate name by persons authorized to execute said Contract as of the day and year first written above on page one.

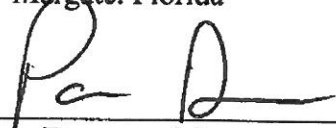
AshBritt, Inc.

By:

  
Terry Jackson

Margate, Florida

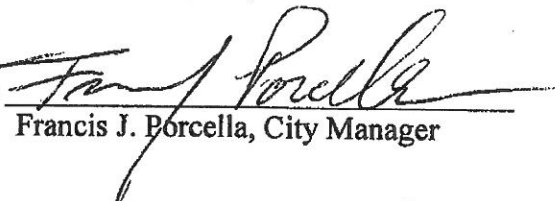
By:

  
Pam Donovan, Mayor

Title:

  
Chief Marketing Officer

By:

  
Francis J. Porcella, City Manager

ATTEST AS TO FORM:

  
By: Eugene M. Steinfeld, City Attorney

Attachments: Exhibit I - (All inclusive pricing sheet)  
Exhibit II - (RFP 2007-017 Response by Contractor)  
Exhibit III - (RFP 2007-017 RFP Document )  
Exhibit IV - (Required contract provisions Federal-Aid Construction Contracts)

**- COPYRIGHT WARNING -**

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