

RESOLUTION NO. 24-52

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH,
FLORIDA, APPROVING AN AGREEMENT WITH ASHBRIIT, INC.
RELATING TO DISASTER DEBRIS AND REMOVAL SERVICES.**

BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement with AshBritt, Inc. for hauling, reduction, and disaster debris removal services in the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions, or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED, APPROVED AND ADOPTED in regular session this 14th day of December 2023.

CITY OF PANAMA CITY BEACH

By: _____


Mark Sheldon, Mayor

ATTEST:



Lynne Fasone, City Clerk

**MASTER SERVICES AGREEMENT
BETWEEN
CITY OF PANAMA CITY BEACH AND**

**RELATING TO
DISASTER DEBRIS REMOVAL, REDUCTION AND HAULING SERVICES**

THIS AGREEMENT is made and entered into this 14 day of December, 2023, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation ("City") and Ashbritt, Inc. ("Contractor").

In consideration of the following covenants, it is agreed:

1. SCOPE OF PROFESSIONAL SERVICES:

A. The City retains the Contractor to diligently, competently and timely provide all necessary labor, supervision, equipment and supplies to perform disaster debris removal and disposal services in the preparation, response, recovery, and mitigation phases of any emergency situation or disaster, to include Emergency Debris Road Clearance (PUSH), Debris Removal (including tree and limb removal) and Disaster Debris Site Management, on an as-needed basis. All work shall follow the Occupational Safety and Health Administration (OSHA) and Environmental Protective agency(s) requirements to maintain a safe working environment in accordance with and as listed in the Bid Form for the **Disaster Debris Removal and Disposal Services RFP**.

B. The Contractor's Scope of Work for providing services under this Agreement is set forth in Exhibit A. Contractor will not be responsible for the preparation of the project worksheets and submittals to Florida department of Emergency Management (FDEM), Federal Emergency Management Agency (FEMA), and Federal Highway Administration (FHWA). The City, or the City's contracted Disaster Debris Monitoring Consultant will perform these tasks. Contractor shall provide full support to the City and its contracted Disaster Debris Monitoring consultant for the development of the project worksheets and documentation to support these projects.

C. Upon request, Contractor will prepare a detailed, project specific scope of work for each task and phase of work to be undertaken in accordance with the general scope of services described in this agreement. The proposed scope of work shall include a schedule for the work and, separately stated, a proposed fee. The proposed fee shall be (i) a stipulated sum or (ii) a stipulated sum plus one or more specified allowances which may be authorized by the City Manager or his or her designee, or (iii) a fee determined on a unit-involved basis with a maximum not to exceed cost.

D. If accepted by the City, the proposed scope of work shall be incorporated into a task order in materially the form set forth as Exhibit B (each a "Task Order"). Each

Task Order shall be numbered and dated, incorporate this Agreement and any additional terms related to that specific Task Order, and shall be signed both by the City and by the Contractor. If a term herein conflicts with a term in a Task Order, the term in the Task Order shall control to the extent of such conflict.

E. Contractor acknowledges that this agreement is non-exclusive and that the City may, in its sole and unfettered discretion enter agreements with one or more firms to assist the City with Disaster Debris Removal and Disposal. Selection by the City as a Contractor does not guarantee that Contractor will be activated or called on a regular basis during the Agreement term, nor does it guarantee a minimum level of compensation with respect to volume of work or fees. Work will be awarded to Contractors based on Contractor's current workload or availability, expertise in the project area and previous work awarded, all at the City's discretion.

F. This is a FEMA financially assisted project and is subject to all provisions for Federal Regulations Contract Requirements 2C.F.R. §200.317-326 for Debris Removal Services (attached hereto as Exhibit C) and shall comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity. The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this contract.

2. COMPENSATION AND PAYMENT:

A. Contractor's compensation for the services described in each scope of work shall be stated or incorporated in the Task Order related to that scope.

B. Upon written instruction by the City, the Contractor shall perform additional work necessary or convenient to complete the services for which a Task Order is entered, and which are mentioned or referenced in this Agreement. The Contractor shall be entitled to additional compensation unless such work is required as a result of error, omission, or negligence by the Contractor. The additional compensation shall be computed by the Contractor on a revised fee quotation proposal and submitted to the City for written approval. If the parties cannot agree, Contractor's initial compensation will be such amount as the City shall determine in good faith to be the fair value of such services, and such amounts shall be paid to Contractor in monthly installments as set forth elsewhere in this Agreement. In the event the City shall unilaterally determine the amount to be paid for such services, Contractor shall have the right, to be exercised by written notice delivered to the City within twenty (20) days after the City Council shall unilaterally determine such amount, to have the value of such services determined by binding arbitration pursuant to the Florida Arbitration Code and in accordance with the rules of

the American Arbitration Association. The Contractor and the City each shall select one arbitrator and those two shall select a third. Each arbitrator shall be familiar by trade or occupation with disaster debris removal and disposal services. The decision of any two (2) arbitrators shall be conclusive and may be enforced in any court of competent jurisdiction in the State of Florida. Each party shall promptly pay when billed, including in advance, one-half of all arbitration fees and costs. The prevailing party shall recover from the other its reasonable attorney's fees and costs, including fees and costs incurred in arbitration and in any action in any court of competent jurisdiction in the State of Florida to enforce the arbitration award, including appeal. Should the arbitrators award Contractor an amount equal to or less than the amount that the City has unilaterally determined, Contractor shall nonetheless be paid the amount unilaterally determined by the City but the City shall be deemed the prevailing party and Contractor shall pay the City's reasonable attorney's fees.

C. At the end of each month during which a Task Order shall be outstanding, the Contractor shall submit a separate invoice for services rendered during that month with respect to each Task Order, as follows:

- 1) Where a stipulated sum is specified, the City shall pay Contractor in monthly installments based upon the percentage of satisfactory completion. In support of payment, Contractor shall monthly submit a request for payment describing the work done, percentage of completion and amount requested to be paid, all by reference to line items in the scope of services where available.
- 2) Where fees are computed on a unit-involved basis, the City shall pay Contractor monthly in arrears upon receipt of an itemized statement in form and detail reasonably acceptable to City.

D. The acceptance by the Contractor, its successors, or assigns, of any Final Payment due upon the termination of this Agreement, shall constitute a full and complete release of the City from any and all claims or demands regarding further compensation for authorized Services rendered prior to such Final Payment that the Contractor, its successors, or assigns have or may have against the City under the provisions of this Agreement. This Section does not affect any other portion of this Agreement that extends obligations of the parties beyond Final Payment.

3. **SCHEDULE:** The estimated schedule for the services required shall be included in each Task Order and related scope of services.

4. **CITY'S RESPONSIBILITY:** The City shall furnish the Contractor with all

existing information available and useful in connection with the proposed project now on file with the City which shall be returned to the City upon the completion of the services to be performed by the Contractor, unless such data are necessary for daily operations; then such forms of information shall be promptly duplicated by the Contractor and the originals returned to the City.

5. CITY'S DESIGNATED REPRESENTATIVE: It is understood and agreed that the City designates the City Public Works Director or his or her designated representative to represent the City in all technical matters pertaining to and arising from the work and performance of this Agreement, whose responsibility shall include:

A. Examination of all reports, drawings, cost estimates, proposals and other documents presented by the Contractor, and rendering in writing decisions pertaining thereto within a reasonable time so as not to materially delay the work of the Contractor.

B. Transmission of instructions, receipt of information, interpretation, and definition of City policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.

C. Give prompt written notice to the Contractor whenever the City observes or otherwise becomes aware of any defects or changes necessary in the Project.

6. CHANGES IN SCOPE: The City may, from time to time, request changes in the scope of work. Such changes, including any increase or decrease in the amount of the Contractor's compensation, shall not be binding unless mutually agreed upon by and between the City and the Contractor, and incorporated in written amendments to this Agreement.

7. TERMINATION:

A. The City may terminate this contract at any time for cause and may also terminate this Contract with or without cause by giving at least thirty (30) days' prior written notice to Contractor. The Contractor may terminate this contract at any time by giving at least ninety (90) days prior written notice to the City.

B. In the event of such termination, the parties shall be entitled to the rights and remedies provided by law. If the City wrongfully terminates this Agreement, the City shall be responsible to Contractor solely for the reasonable value of the work performed by the Contractor prior to the City's wrongful action, including reasonable overhead and profit on the work performed, less prior payments made. Under no circumstances shall Contractor be entitled to overhead and profit on work not performed.

8. TERM: Unless terminated sooner pursuant to the provisions of the "TERMINATION" clauses contained in Paragraph 7 of this Agreement, and subject to the

availability of appropriated funds, this Agreement shall take effect on the day and year first above written for an initial term of three (3) years with two one (1) year options.

9. INDEMNIFICATION:

A. The Contractor hereby does indemnify and hold harmless the City, and its officers and employees, from any and all claims, suits, actions, damages, liabilities, expenditures, or causes of action of any kind, losses, penalties, interest, demands, judgments, and costs of suit, including attorneys' fees and paralegals' fees, for any expenses, damage or liability incurred by any of them, whether for bodily or personal injury, death, property damage, direct or consequential damages, or economic loss, including environmental impairment, arising directly or indirectly, on account of or in connection with Contractor's performance of the contract or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Contractor, or by any other person.

B. The parties understand and agree that such indemnification by the Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Contract and any statutes of limitations thereafter.

C. The Contractor's obligation shall not be limited by or in any way to any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

10. DUTY TO PAY DEFENSE COSTS AND EXPENSES:

A. The Contractor agrees to reimburse and pay on behalf of the City the cost of the City legal defense, through and including all appeals, and to include all attorneys' fees, costs, and expenses of any kind for any and all 1) claims described in the Hold Harmless and Indemnification paragraph or 2) other claims arising out of the Contractor's performance of the Contract and in which the City has prevailed.

B. The City shall choose its legal defense team, experts, and consultants and invoice the Contractor accordingly for all fees, costs and expenses upon the conclusion of the claim.

C. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

11. INSURANCE AND PERFORMANCE SECURITY:

A. The Contractor shall not commence work under this Agreement until it has obtained all insurance and bonds required and provided same to the City.

B. The Contractor shall procure and maintain during the life of this Agreement insurance of the following types:

- 1) Worker's Compensation: For all of his employees engaged in work on the project under this Agreement. In case any employee engaged in hazardous work on the project is not protected under the Worker's Compensation Statute, the Contractor shall provide Employer's Liability Insurance for the protection of such of his employees not otherwise protected under such provisions.

Coverage A – Worker's Compensation - Statutory
Coverage B – Employer's Liability - \$1,000,000.00

- 2) Liability: Comprehensive General Liability insurance including, but not limited to:
 - a) Independent Contractor's Liability;
 - b) Contractual Liability;
 - c) Personal Injury Liability.

The minimum primary limits shall be no less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate Personal Injury Liability, and no less than \$500,000 Property Damage Liability, or \$2,000,000 Combined Single Limit Liability, or higher limits if required by any Excess Liability Insurer. City shall be named as additional insured pursuant to an additional insured endorsement on ISO Form 20 10 10 01 (or superseding form) providing comprehensive general liability coverage for completed operations in addition to on-going operations.

- 3) Automobile Liability: Automobile Liability insurance including all owned, hired, and non-owned automobiles. The minimum primary limits shall be no less than \$1,000,000 Bodily Injury Liability, and no less than \$1,000,000 Property Damage Liability, or no less than \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess Liability Insurer. City shall be named as additional insured.
- 4) Professional Liability: Project specific Professional Liability insurance covering professional services rendered in accordance with this Agreement in an amount not less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate.

C. Certificates of Insurance: The Contractor shall furnish to the City copies of

all policies and endorsements and certificates of insurance allowing thirty (30) days written notice of any change in limits or scope of coverage, cancellation, or non-renewal. Such certificates shall contain the following wording: "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN." In the event (1) the ACORD form does not include the forgoing provision in the certificate, (2) the City has been provided a copy of a policy endorsement naming the City as additional insured (on the general liability and automobile liability insurance policies) and (3) the policy endorsement in favor of the City (for the workers compensation, general liability and automobile liability insurance policies) expressly provides that the City be given thirty (30) days written notice before an amendment in limits or scope of coverage or cancellation, then the following wording may be substituted "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS." If the insurance policies expire during the term of this Agreement, a renewal certificate shall be filed with the City thirty (30) days prior to the renewal date.

D. Contractor agrees to furnish to the City a performance/contract surety bond in the amount equal to one hundred ten percent (110%) each for the estimated value of the assigned disaster related work within seventy-two (72) hours after written notice to proceed. Such performance security shall be in a form and issued by a surety, financial institution, or other entity acceptable to the City. City may require the posting of additional performance security as a result of any increase in the performance of the disaster event. The contractor shall obtain and deliver such additional security to the City within seventy two hours after receipt of the written request therefore.

12. NEGOTIATION DATA:

The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or any other consideration upon or resulting from the award of this agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct the contract price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

13. OWNERSHIP OF DOCUMENTS: It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications, and all other data in whatever form (text, graphic, digital or other electronic), prepared or obtained by the Contractor in connection with its services hereunder shall always be the property of the

City and shall be delivered to the City promptly without cost or lien upon request or termination of this Agreement by lapse of time or otherwise. The Contractor shall not be liable for any use by the City of project specific design documentation if modified in any manner without written approval of the Contractor. The City shall not use the Contractor's project specific design documentation on any project other than the project described in the Scope of Work and Instructions to Respondents unless the City notifies the Contractor of its intended use, provides insurance protection for the Contractor for all claims which might arise out of the City's use of the documents, and obtains written consent of the use by the Contractor.

When transferring data in electronic media format, Contractor makes no representation as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Contractor at the beginning of the Project. Because the data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Contractor shall not be responsible to maintain documents stored in electronic media format after acceptance by City. The original hard copy of the documents containing the professional Contractor's seal shall take precedence over the electronic documents.

Notwithstanding any provision to the contrary contained in this Agreement, Contractor shall retain sole ownership to its pre-existing computer programs and software.

14. WORK COMMENCEMENT/PROGRESS/DELAYS:

A. The services to be rendered by the Contractor shall commence upon execution of this Agreement, and the respective Task Order, and upon written notice to proceed from the City Manager of his or her designee.

B. The Contractor agrees to abide by the schedule for performance of the contracted services. The City will be entitled at all times to be advised in writing at its request as to the status of the work being done by the Contractor, and of the details thereof. City may require specification of liquidated delay damages in a Task Order. Failure to specify liquidated delay damages in a Task Order shall not relieve Contractor of liability for delays or other damages as provided by law.

C. In the event there are delays on the part of the City or regulatory agencies as to the approval of any of the plans, permits and drafts of special provisions submitted by the Contractor which delay the project schedule completion date, the City shall grant to the Contractor in writing an extension of time equal to such delays.

D. The Contractor shall maintain an adequate and competent staff of personnel and may associate with other qualified firms for the purpose of rendering services hereunder. All of the services required herein shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The Contractor, shall not sublet, assign, or transfer any work under this Agreement without the written consent of the City. Contractor shall utilize the US Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of: 1. All persons employed by the Contractor during the term of the Contract to perform employment duties within Florida; and 2. All persons, including subcontractors, assigned by the Contractor to perform work pursuant to the contract with the City.

15. STANDARDS OF CONDUCT:

A. The Contractor covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

B. The Contractor agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The Contractor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

16. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS: The Contractor shall comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

17. ASSIGNABILITY: The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of the City, provided that claims for the money due or to become due the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution, or to a trustee in bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

18. INDEPENDENT CONTRACTOR: The Contractor is and shall remain an

independent contractor and not an employee of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees or agents of the City. The Contractor does not have the power or authority to bind the City in any promise, agreement or representation.

19. CONTROLLING LAW AND VENUE: All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of Florida applicable to contracts made and to be performed within this state. Exclusive jurisdiction and venue to interpret or resolve any dispute under this Agreement shall lie in the Circuit Court, Fourteenth Judicial Circuit, in and for Bay County, Florida.

20. ATTORNEY'S FEES: If the either party is required to institute or defend any legal proceedings in connection with this Agreement, the prevailing party shall be entitled to its costs thereof, together with reasonable attorney's fees.

21. NO WAIVER: No waiver of any provision of this Agreement shall be effective unless made in writing, signed by the party against whom it is charged. No waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement, nor of the same provision in the future. Neither the failure nor any delay by any party in exercising any right or power under this Agreement, nor any course of dealing between or among the parties, will operate as a waiver of such right or power, and no single or partial exercise of any such right or power will preclude any other or further exercise of such right or power or the exercise of any other right or power.

22. COOPERATION: Contractor acknowledges that the performance of disaster debris removal and disposal services and addressing the needs of the community, and coordinating those efforts with other disciplines is a multi-disciplinary effort which will require cooperation and collaboration with numerous consultants, Contractors, and counsel assisting and advising the city, as well as direction from the City Manager and City Contractor, and agrees in all things to cooperate with the City and all its consultants as needed.

23. MEDIATION: City and Contractor agree to attempt to resolve any dispute between them related to the interpretation or performance of this Agreement by mediation in Bay County, Florida, with a mutually acceptable, certified Florida Mediator to serve at joint expense. If the parties are unable to agree upon a mediator, either party shall request the appointment of a mediator by the Chief Judge of the Circuit Court, Fourteenth Judicial Circuit in and for Bay County, Florida. Mediation contemplated by this paragraph is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making

shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. Any settlement will require approval of City's governing board. If the parties are unable to reach a mediated settlement within ninety (90) days of the mediator's appointment, either party may terminate the settlement discussions by written notice to the other and initiate litigation. Any litigation commenced in violation of this section shall be stayed pending mediation as agreed. This section shall survive termination of this Agreement.

24. ACCESS TO RECORDS:

A. The Contractor agrees to provide the City, the State of Florida Division of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor acknowledges that this duty to provide paperwork may arise up to 5 years following completion of the project, and agrees to retain project paperwork for that time period.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

25. PUBLIC RECORDS: The City is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that Contractor is acting on behalf of City as provided under Section 119.011(2) (2017) and implemented through the judicially established "totality of factors" analysis, Contractor agrees to also comply with that law, specifically including to:

A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

B. Upon request of the City, provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

D. Meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the contractor upon termination of the

contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.


E. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, IT IS THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, AND TO CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 850-233-5100, LYNNE.FASONE@PCBFL.GOV, 17007 PANAMA CITY BEACH PARKWAY, PANAMA CITY BEACH, FL 32413.

26. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to the subject matters. All prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. Any alterations or variations of the terms of this Agreement shall not be valid unless made in writing and signed by the parties. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or unenforceable, then, notwithstanding, the remainder of the Agreement shall remain in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have hereto caused the execution of these documents as of the year and date first above written.

**THE CITY OF PANAMA CITY BEACH,
FLORIDA,**
a municipal corporation

By: 
~~Drew Whitman, City Manager~~
Haley J White

ATTEST:


Lynne Fasone, City Clerk

ASHBRITT, INC.

By: 
Its: Dow Knight, Senior Vice President


WITNESS
PRINT NAME: Jacqueline Ryan

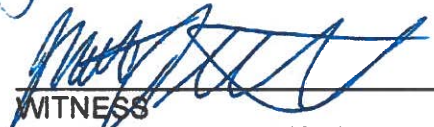

WITNESS
PRINT NAME: Matt Gierden

EXHIBIT A

SCOPE OF SERVICES SCOPE OF WORK

The City of Panama City Beach is requesting proposals from qualified and experienced contractors to assist the City with debris removal and recovery operations after a major natural disaster or emergency situation. Duties shall include coordination of recovery activities necessary to meet FEMA eligible requirements for full reimbursement, coordination with FEMA and City Staff, provision of equipment and personnel in sufficient quantity to rapidly remove and dispose of all disaster related debris, data management, provide daily quantity and progress reports to City Staff, or any other tasks as directed by Debris Manager. Initial response shall be deemed as having a Contractor's representative physically present at the Panama City Beach Public Works Department (116 S. Arnold Road, Panama City Beach, FL 32413) within twelve (12) hours after notification of need. Performance shall be deemed as the commencement of work as defined by Task Order within twenty-four (24) hours of issuance of Notice to Proceed. Should the recovery work not be fully underway within seventy-two (72) hours of the event, the liquidated damages clause (see page 5) may be imposed. All payments under the contract resulting from the Request for Proposal shall be made only for services requested and approved by the City. There shall be no retainer paid in order to keep the contract in effect. The City will contract for the provision of personnel, equipment, plans, procedures and other materials and capabilities necessary for post disaster situations on an as-needed basis as directed by the City by specific task orders to the Contractor. The Contractor must have available a wide variety of emergency preparedness, response, recovery, and mitigation resources. The Contractor shall be responsible for travel, per diem, housing, and meals for all of its employees and/or subcontractors. The Contractor will also be responsible for providing temporary office space for conducting its work responsibilities for this project.

DEBRIS REMOVAL MANAGEMENT

Activities include, but are not limited to furnishing all labor, materials, and equipment to accomplish the following tasks:

1. Clearing and/or removing debris from the public rights-of-way, streets and roads or privately owned property as required to secure the public safety.
2. Management and operation of storage and debris reduction sites to accept, process, reduce and dispose of event related debris;
3. As directed, demolition and removal of condemned structures and buildings that pose a threat to public safety as a result of the event;
4. Tree trimming, tree topping, tree removal, stump grinding, grubbing, clearing, hauling and disposal;
5. Providing all permits and services necessary for the containment, clean up, removal, transport, storage, testing, waste debris reduction, treatment and/or disposal of hazardous and industrial materials, including white goods, resulting from the events.
6. Removal of sand and earthen materials from roads, streets, and rights-of-way.

MOBILIZATION – DEBRIS REMOVAL

The contractor shall mobilize personnel and equipment for this task and shall be fully mobilized to begin debris removal operations within 72 hours following the day of the disaster. Debris removal work within the City will be prioritized by the City.

DEBRIS REMOVAL FROM PUBLIC RIGHTS-OF-WAY

As identified by and directed by the City, the Contractor shall accomplish the pick-up and hauling of all eligible debris to the designated Debris Management Sites (DMS) from public rights-of-way; and shall maintain debris work sites to appropriate use standards, safety standards and regulatory standards.

HAND LOADING

The preference is for all debris to be mechanically and reasonably compacted. Debris monitors located at temporary or final debris disposal sites will reduce the observed capacity of each hand loaded truck or trailer by fifty percent (50%) because of the low compaction achieved by hand loading. For example, if a 40 cubic yard (CY) hand loaded truck or trailer arrives at a debris management or disposal site, and it appears to be 100% full, the actual quantity of debris in the truck or trailer will be recorded as 20 CY (40 CY* 50%). In the same manner, if the truck or trailer appears half full, the load will be recorded as 10 CY {[40 CY/2] * 50%}. The maximum amount recorded for a hand loaded vehicle will be fifty percent (50%) of its measured capacity.

NOTE: ABOVE IS FOR PURPOSE OF EXAMPLE ONLY. LATEST FEMA GUIDELINES SHALL APPLY

SUBCONTRACTORS

The Contractor shall provide the City with an updated list of all subcontractors including phone numbers of contact personnel. Prior to the City assigning work, the Contractor shall provide the City with an affidavit from each subcontractor stating there is a signed contract between the Contractor and subcontractor. The City may, at its discretion, limit the number of subcontract firms working under the prime or sub-prime contractor at its sole discretion to ensure safety and quality of work provided. Subcontractor(s) shall only perform work for one Respondent. In its proposal to the City, the Contractor will provide information as to what percentage of the work described herein will be subcontracted.

COSTS FOR SCOPE OF WORK

Measurement and Payment for Gathering, Pick-up and Hauling to DMS; Processing of Debris from Public Rights-of-Way; Hauling of Debris from DMS to Final Disposal Site

The Contractor will not be compensated for disposing of any material not defined as eligible debris. The Contractor and City will inspect each load to verify the contents are in accordance with the accepted definition of eligible debris. If any load is determined to contain material that does not conform to the definition of eligible debris, the load will be ordered to be deposited at another landfill or receiving facility and no payment will be allowed for that load; and, the Contractor will not invoice the City for such loads. For each suitable load picked up, hauled, and processed, a record of the cubic yards will be recorded by the Contractor and City on numbered tickets supplied by the Contractor. Copies of each load record will be available to the Contractor and the City's designee on site. Each invoice shall contain verification of each cubic yardage load ticket and also contain a summary sheet indicating, by day, the individual verified load receipt and invoice

amounts. The City may temporarily remove any disputed amount line items in the bill from the invoice for review. Disposal costs (Landfill Tipping Fees) shall be the responsibility of the City.

MODIFICATION OF WORK

The City reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the Contractor of the City's notification of a contemplated change, the Contractor shall:

1. Provide an estimate for the increase or decrease in cost due to the contemplated change;
2. Notify the City of any estimated change in the completion date;
3. Advise the City, in writing, if the contemplated change shall affect the Contractor's ability to meet the completion dates or schedules of this contract. Upon written instruction by the City, the Contractor shall suspend work on any portion of the work affected by a contemplated change, pending the City's decision to proceed with the change. If the City elects to make the change, the City shall issue a Contract Amendment or Change Order and the Contractor shall not commence work on any such change until such written Amendment or Change Order has been issued and signed by each of the parties.

RETAINAGE / COMPLETION OF WORK

The City shall withhold a retainage fee in the amount of ten percent (10%) of the value of the work until such time as the work is considered complete. This work shall not be considered complete until any damage to public or private property has been repaired to the satisfaction of the City. Any repairs to private property shall include a signed release from the owner.

FINAL PAYMENT

It is anticipated that for a Category 3 (or less) hurricane, that work shall be complete within sixty (60) days of initial Notice to Proceed. More severe storms are anticipated to take longer to complete. In order for both parties to close their books and records, the Contractor will clearly state 'final invoice' on the Contractor's final/last billing to the City. This certifies that all services have been properly performed and all charges and costs have been invoiced to the City. Since this account will thereupon be closed, any other further charges, if not properly included on this final invoice, are waived by the Contractor.

STAFFING REQUIREMENTS – CONTRACTOR

The Contractor represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of the City or have any contractual relationship with the City that has not been disclosed. The City will determine if a conflict exists & notify the parties accordingly. All of the services required herein under shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized, or permitted under state and local law to perform such services. The Contractor warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

UNAUTHORIZED ALIEN WORKERS

The City will not intentionally award publicly funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act (“INA”). The CITY shall consider the employment by the contractor of unauthorized aliens a violation of Section 274A (e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A (e) of the INA shall be grounds for unilateral cancellation of this Agreement by the City.

AS AN EXAMPLE, THE FOLLOWING STAFFING REQUIREMENTS WILL PROVIDE FOR A CATEGORY 3 HURRICANE WITH TWO (2) PRIMARY STORM DEBRIS COLLECTION SITES. EACH COLLECTION SITE WILL BE IN OPERATION FROM DAWN TO DUSK, SEVEN (7) DAYS A WEEK.

1. **Certification Technicians: (6)** Measure, photograph, certify and re-certify the total cubic yard capacity of each collection hauler.
2. **Clerical Staff Coordinator: (2)** Set-up FEMA spread sheets and update daily. Maintain and distribute to City Staff the daily “Hurricane (name) Storm Debris Collection Data Report.” Provide collection status and other information to FEMA personnel as needed. Manage City Staff documentation, i.e. time cards; sign-in sheets; field supplies and equipment; provide reporting site assignments; assign cellular phones to City Recovery Staff; assign vehicles; provide collection instructions and guidelines to each Field Monitor; oversee the other assisting clerical staff.
3. **Clerical Staff Assistants: (4)** Processing of the previous day’s Field Monitors daily reporting sheets- Post the City wall map with the previous day’s collection locations; Tally-up the previous day’s collection totals; Calculate the Monitors time worked and fill out the time cards to be signed by the monitors later; track the vehicle mileage.

STAFFING REQUIREMENTS – CITY

The City will provide a Storm Debris Removal Project Coordinator to act as Liaison between City staff, FEMA, and Contractor. This person will oversee the City’s interest in the entire storm debris removal operation and assure FEMA and contract compliance.

MINIMUM LEVEL OF SERVICE

The Contractor shall provide the City multiple estimated minimum levels of service commitments at the time of a “declared emergency” by the City. These multiple commitments shall include, but shall not be limited to, mobilization schedules, estimated number of calendar days for completion and resource designations. The multiple commitments shall also be commensurate with the required minimum level of service for varying degrees of severity of the event. The determination as to which minimum level of service commitment is implemented shall be the responsibility of the City. This shall be based on the actual severity and impact of the event.

PERFORMANCE REMEDY NOTIFICATION

Failure of the Contractor to meet the minimum level of service commitments, once debris management services commence, shall result in the issuance of a Performance Remedy

Notification from the City to the Contractor. Once this date and time stamped notification is issued, the Contractor shall have a twenty-four (24) hour period in which to respond (in writing) and take corrective action. Failure to do so may result in the assessment of liquidated damages against the Contractor or its Surety.

LIQUIDATED DAMAGES

Parties agree that damages are difficult to determine but the following liquidated damages are agreed to be a reasonable cost for any delays: If the Contractor shall neglect, fail or refuse to START the Work within the 72-hours specified, or any proper extension thereof granted by the City, then the Contractor hereby agrees, as part consideration for awarding the Agreement, that the City reserves the right to assess damages in the event that the Contractor response is not timely in accordance with the terms of this Agreement and the Contractor agrees to pay the City said sum for each and every calendar day that the Contractor shall be in default after the time stipulated in the Agreement for STARTING the Work. The Contractor and City acknowledge and agree that said sum is not a penalty but liquidated damages for breach of contract. The City and Contractor agree that the damages that will be incurred by the City as a result of Contractor's delay in meeting a START date are of a kind difficult to accurately estimate, and the Contractor further agrees that the said sum amount is reasonable of the damages that will actually be incurred by the City in the event of any such delay and not a penalty.

ACCIDENT PREVENTION

Precautions shall be exercised at all times for the protection of persons and property. Contractor and any subcontractors shall conform to all OSHA, State, City regulations while performing under the terms and conditions of this contract. Any fines levied by the above-mentioned authorities because of inadequacies to comply with these requirements shall be borne solely by the Respondent responsible for same.

GENERAL REQUIREMENTS

REPORTING

The Contractor shall submit a report to the City by close of business each day for the term of the contract. Each report shall contain, at a minimum, the following information:

1. Contractor's Name
2. Report Date
3. Location of completed work
4. Location of work for next day
5. Daily and cumulative numbers for each piece of equipment and crew (Emergency Clearance)
6. List of roads that were cleared (Emergency Clearance)
7. Number of crews (including number of trucks and loading equipment)
8. Daily and cumulative totals of debris removed, by category
9. Daily and cumulative totals of debris processed, to include method(s) of processing and disposal location(s)
10. Daily estimate of hazardous waste debris segregated, and cumulative amount of hazardous waste placed in designated holding area
11. Number of hazardous trees and hanging limbs removed
12. Problems encountered or anticipated

DUMPSITES (DMS Sites)

The Contractor shall use only debris dumpsites designated by The City. The dumpsite operator/contractor will direct all dumping operations. The Contractor shall cooperate with the dumpsite operator/contractor to facilitate effective dumping operations. The City makes no representations regarding the turn-around time at the dumpsites.

OTHER CONSIDERATIONS

The Contractor shall supervise and direct the work, using skillful labor and proper equipment for all tasks. Safety of the Contractor's personnel and equipment is the responsibility of the Contractor. The Contractor shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract. The Contractor must be duly licensed in accordance with the state and local statutory requirements to perform the work. The Contractor shall obtain all permits necessary to complete the work. The Contractor shall be responsible for determining what permits are necessary to perform under the contract. Copies of all permits shall be submitted to The City. The Contractor shall be responsible for taking corrective action in response to any notices of violations issued because of the Contractor's or any subcontractors' actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost to The City. The Contractor shall be responsible for removing all abandoned equipment from the public and private property that was used under this contract. The Contractor is not permitted to store equipment or trucks on public property without the approval of the City. There shall be no overnight parking or camping on public property without the approval of the City.

OTHER CONTRACTS

Other contracts may be issued for the purpose of removing disaster related debris within The City. The City reserves the right to issue other contracts or direct other contractors to work within the scope of work included in this contract.

EQUIPMENT

The Contractor shall provide all equipment necessary to prepare the site(s), stockpile the debris, feed the grinder(s), load, and haul for disposal of all non-grindable or non-burnable debris and ash residue, and any other equipment which may be necessary for the performance of this contract.

Prior to commencing debris reduction and disposal operations, the Contractor shall present to The City, for approval, a detailed description of all equipment to be used for debris handling, sorting, processing, loading, and hauling, stating brand name, and model and horsepower. All trucks and other equipment must be in compliance with all applicable federal, state, and local rules and regulations. Any equipment that is hauling debris to the designated reduction site shall be capable of self-dumping or removing its load without assistance from other equipment. Sideboards or other extensions to the bed are allowable provided they meet all applicable rules and regulations, cover the front and both sides, and are constructed in a manner to withstand severe operating conditions. The sideboard extensions shall be braced with metal reinforcing. The overall height of the hauling vehicle shall not exceed 13 feet 6 inches above the ground. All extensions are subject to acceptance or rejection by The City. Damaged sideboards must be repaired prior to arriving at the dumpsite. All trucks utilized in hauling debris shall be equipped with a tailgate that will effectively contain the debris on the vehicle while hauling and also permit the vehicle to be loaded to capacity. Gaps in the tailgate greater than two (2) inches will not be permitted. The tailgates shall be secured along the edges with fasteners of sufficient strength to hold the tailgate securely closed during transit, rubber bungee cords

will not be permitted. The Contractor, prior to use, will inspect all equipment to ensure all requirements are met and it is in good overall condition. The City reserves the right to refuse equipment that is demand unsafe or inadequate.

All equipment used for hauling debris shall be measured and marked for its load capacity. The Contractor shall supply pre-approved measurement forms for each hauling container used under this contract. Prior to commencing debris removal operations, the Contractor shall present to The City all trucks or trailers that will be used for hauling debris, for the purpose of determining hauling capacity. The hauling capacity will be based on the interior dimensions of the hauler's container, and rounded down to the nearest whole cubic yard. Hauling capacity, in cubic yards, will be recorded and marked on each truck or trailer with permanent markings. Each truck or trailer will also be uniquely numbered for identification with a permanent marking. Trucks and trailers designated for use under this contract shall be equipped with a placard on the driver's side of the hauling container. The placard shall state the Contractor's name, the sub-contractors name, individual and unique identification number and the total capacity in cubic yards of the hauling container. The Contractor shall furnish these signs. All signs shall be removed prior to performing work other than activities associated with this contract. Equipment used under this contract shall be rubber tired and sized properly to fit loading conditions. Excessively large loading equipment (3 CY and larger) and non-rubber-tired equipment must be approved by The City. Hauling containers shall be a minimum of 15 cubic yards in volume unless approved by The City. Trailer type haulers shall be equipped with either tandem axles and/or dual tires, a minimum of four (4) tires are required on all trailers. The GVWR shall be a minimum of 10,000 lbs. on all trailers. All trailers must have a legible manufacture's identification plate with ratings. Trucks or equipment that are designated for use under this contract shall not be used for any other work during the working hours of this contract. The Contractor shall not solicit work from private citizens or others to be performed in the designated work area during the period of this contract. Under no circumstances will the Contractor mix debris hauled for others with debris hauled under this contract.

LOAD TICKETS

A five (5) part Load Ticket will be used for recording volumes of debris removed and processed. Refer to attached sample:

At a minimum each ticket will contain the following information:

- Panama City Beach Debris Load Ticket (as a title)
- Contractor Name
- Ticket Number
- Load Site Location
- Date
- Load Site Zone
- Truck (Container) Number
- Capacity (Container)
- Total Debris Volume (Quantity)
- Dump Site Name (Location)

- Debris Classification (Vegetation, C&D, Mixed, Other)
- Comment Section
- Verification Signature Lines (Load Site, Dump Site Monitors and Contractor)

A Load Site Monitor will issue a load ticket to the hauler prior to departure from the loading site. Upon arrival at the dumpsite, the vehicle operator will give the five copies to the City Disposal Site Monitor at the dumpsite, The City will validate, retain one copy, and give one copy to the driver, and three copies to the Contractor, (one copy for the sub-contractor and two copies for the prime contractor). The Debris Removal Contractor will not be permitted to unload the debris at a DMS/dump site without an approved Load Ticket that was supplied by their assigned monitor. The Contractor will not receive a Load Ticket for any loads that were not observed by a Load Site Monitor during loading without the approval of The City. The Debris Removal Contractor shall supply all Load Tickets for the use of tracking the loads into the DMS sites. The DMS Site Management Contractor shall supply all Load Tickets for the use of tracking the final haul out of processed debris. A City Dump Site Monitor will determine the total cubic yards of material received by visual inspection of the load. Trucks with partial loads will be adjusted down during this visual inspection by The City. Load measurements will be documented on Load Tickets. The Contractor shall keep a daily updated log, in each DMS site inspection tower, of all loads received, including the total volume of debris in each load. The Contractor shall provide a copy of all daily log sheets at the end of each business day.

TRAFFIC CONTROL

The Contractor shall be responsible for control of pedestrian and vehicular traffic in the work area. The Contractor shall provide all flag persons, signs, equipment, and other devices necessary to meet federal, state, and local requirements. The traffic control personnel and equipment shall be in addition to the personnel and equipment required in other parts of this contract. At a minimum, one flag person shall be posted at each entrance to the work area to direct traffic. The contractor shall be responsible for traffic control during operations performed by the contractor's personnel and/or subcontractors. Traffic control shall be in conformance with the Federal Highway Administration, Manual on Uniform Traffic Control Devices, latest edition and the Florida Department of Transportation Roadway and Traffic Design Standards, latest edition. The Contractor must be qualified and provide The City with copies of certifications to conduct traffic control operations on roads. The foregoing requirements are to be considered as minimum and the Contractor's compliance shall in no way relieve the Contractor of final responsibility for providing adequate traffic control devices and methods for the protection of the public and employees throughout the work areas.

HAZARDOUS WASTE SPILLS – If applicable

The Contractor shall be responsible for reporting to the City and cleaning up all hazardous materials or waste spills caused by the Contractor's operations at no additional cost to The City. Immediate containment actions shall be taken as necessary to minimize the effect of any spill or leak. Cleanup and reporting shall be in accordance with applicable federal, state, and local laws and regulations. Spills shall be reported to the Florida Department of Environmental Protection (FDEP) – State Warning Point and The City immediately following discovery. A written follow-up report shall be submitted to The City no later than seven (7) days after the initial report. The written report shall be in narrative form, and as a minimum shall include the following:

- Description of the material spilled (including identity, quantity, manifest number, etc.).
- Determination as to whether or not the amount spilled is EPA/FDEP reportable, and when and to whom it was reported.
- Exact time and location of spill, including description of the area involved.
- Receiving stream or water.
- Cause of incident and equipment and personnel involved.
- Injuries or property damage.
- Duration of discharge.
- Containment procedures initiated.
- Summary of all communications the Contractor has had with press, agencies, or Government officials other than The City.
- Description of cleanup procedures employed at the site, including disposal location of spill residue.

MOST FAVORABLE PRICING

By submitting a response to this Request for Proposal, the Contractor guarantees the City that the prices reflected in this proposal are no higher than those charged the Contractor's most favored customer for the same or substantially similar service.

EXHIBIT B
COMBINED TASK ORDER AND
NOTICE TO PROCEED

TASK ORDER NO. _____

DATE

Reference is made to that certain MASTER SERVICES AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND [] RELATING TO DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES dated _____, 2023, (the "Agreement"), the terms, conditions and definitions of which are incorporated herein as if set forth in full. Neither party is in breach of the Agreement.

Pursuant to the Agreement, Contractor agrees to perform the specific tasks set forth upon incorporated Attachment A, Scope of Services, relating to _____.

Contractor's total compensation shall be (check one):

_____ a stipulated sum of \$ _____; or

_____ a stipulated sum of \$ _____ plus one or more specified allowances listed below which may be authorized in writing by the City Manager or his or her designee,

Allowance of \$ _____ for _____, and

Allowance of \$ _____ for _____; or

_____ a fee determined on a unit-involved basis with a maximum not to exceed cost of \$ _____;

as set forth upon incorporated Attachment B, Fee Breakdown, and shall be paid in monthly installments as specified in the Agreement.

Work shall begin on _____, 20__, and shall be completed within _____ calendar days. The date of completion of all work is therefore _____, 20__. Liquidated delay damages, if any, are set at the rate of \$ _____ per day. There are no additional rights and obligations related to this Task Order other than as specified in the Agreement.

Upon execution of this task order by both Contractor and City, Contractor is directed to proceed.

IN WITNESS WHEREOF the parties have caused these presents to be executed in their names on the date shown.

Witness:

[]

By: _____ Date: _____

Its:

CITY OF PANAMA CITY BEACH, FLORIDA

ATTEST:

By: _____ Date: _____

City Manager

City Clerk

EXHIBIT C

FEDERAL REGULATIONS CONTRACT REQUIREMENTS 2 C.F.R §200.317-326 FOR DEBRIS REMOVAL SERVICES

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The awarded contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to the awarded contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

PROCUREMENT OF RECOVERED MATERIALS

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired:

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.

TERMINATION FOR CONVENIENCE

The City may terminate any awarded contract at any time for any reason by giving at least thirty (30) days notice in writing to the awarded bidder. If the contract is terminated by the City as provided herein, the awarded bidder will be entitled to receive payment for those services reasonably performed to the date of termination.

TERMINATION FOR CAUSE

If the awarded bidder fails to comply with any of the terms and conditions of the awarded contract, the City may give notice, in writing, to the awarded bidder of any or all deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If all defaults are not cured and corrected within a reasonable period as specified in the notice, the City may, with no further notice, declare the awarded contract to be terminated. The awarded bidder will thereafter be entitled to receive payment for those services reasonably performed to the date of termination, less the amount of reasonable damages suffered by the City by reason of the awarded bidder's failure to comply with the awarded contract.

Notwithstanding the above, the awarded bidder is not relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by the awarded bidder and the City may withhold any payments to the awarded bidder for the purpose of setoff until such time as the amount of damages due the City from the awarded bidder is determined.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

(1) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps must include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

EQUAL OPPORTUNITY CLAUSES

Compliance with Regulations: The contractor shall comply with the Acts and the Regulations relative to Nondiscrimination in federally-assisted programs, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

During the performance of any awarded "federally assisted contracts" the contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for

further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH DAVIS-BACON ACT

(1) Contractor. The contractor shall comply with 40 U.S.C. § 3141 – 3144 and 3146 - 3148, as supplemented by Department of Labor regulations 29 C.F.R. pt. 5 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

COMPLIANCE WITH COPELAND “ANTI-KICKBACK” ACT

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT 40 U.S.C. 3702 AND 3704, AS SUPPLEMENTED BY DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 5)

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including

watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any Disaster Debris Disposal and Removal Services 53 Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

ENERGY EFFICIENCY AND CONSERVATION ACT

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Energy Policy and Conservation Act (42 U.S.C. 6201) and the provisions of the state Energy Conservation Plan adopted pursuant thereto.

SUSPENSION AND DEBARMENT

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida Division of Emergency Management and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/ or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the Disaster Debris Disposal and Removal Services period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BYRD ANTI-LOBBYING AMENDMENT 31 U.S.C. § 1352 (AS AMENDED)

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.